LITTLE-
TON TENVRES
in Englishe.

Cum priuilegio ad imprimendum solum.

Eſtates of { Fee ſimple,
{ herit[illegible].

Fee taile. { Gener
{ Eſpeci
{ after poſſi
{ litte of iſſu

After { Curteſie o
come { Dower.
Frankstene: { Terme of lif
Frank mene onely. { Terme of o
tenr. { there lyfe

Poſſeſſi- After the
on of cuſtome.

{ Alſo note here that frank
{ tenemẽt after the cu ſtom
{ may be deuided in like ma
{ ner as frankstenement by
{ the common lawe is.

Real. { Terme of yere.
{ Warde of lande
{ To holde at wyl

Chatel.

Perſonal. Al goodes moueables.

Tenan

DEnant en fee simple is he whiche hath landes or tenementes to holde to hym and to his heyres for euer. And it is called in latin feodum simplex, for feodum is called inheritãce and simplex is asmuche to saye as lawful or pure, and so feodum simplex is as much to say as lawfull or pure inheritaunce. For if a man will purchase landes or tenementes in fee simple, it behoueth hym to haue these woordes in his purchase, to haue and to hold vnto hym and to his heires, for these woords his heires make the estate of inheritance. Anno. 20. H. 6 Folio. 38.

¶ For if any man purchase landes by these woordes, to haue and to hold to hym for euer, or by suche woordes to haue and to holde to hym & to his assignes for euer. In these two cases he hath none estate but for terme of life for that, that he lacketh these woordes his heires, whiche woordes onely make the estate of inheritaunce, in al feoffementes and graũtes.

And if a man purchase landes in fee simple and dye without issue, euery one that is his next colyn collaterall of the whole bloud, how farre soeuer that he be from hym of degree, may inherite and haue the same land as heire to hym. But yf there be father and son, and the father hath a brother, which is vncle vnto the sonne, and the son purchaseth lande in fee simple and dyeth without issue liuyng the father, the vncle shall haue the lande, as

But if a Bar- for life is ma to y sonne y Fa to y sonne y A dyed y A good y sonne

By purchase and not y Vncle

heire vnto the sonne, & not the father (yet the father is more nye of bloud vnto the sõne) for that that ther is a grõud in law, that inheritance may lineally descend, but not lineally ascende, yet if the sonne in such case die without issue & his vncle entreth into the land as heir vnto the sõne so as he ought by the law, and after if the vncle decease without issue liuing the father than shal the father haue the lande as heire vnto the vncle, & not heire vnto ỹ sõ, for that, that he cõmeth vnto the land by collateral discent, & not by lineal ascencion.

And in such case where the son purchaseth land in fee simple, & dieth without issue, they of his bloud on the fathers side shal inherite as heyre vnto hym, before any of the bloud of the mothers side. But if he haue none heyre on the fathers syde, than shall the land discend vnto his heire on the mothers side. And thys is the opinion of al the Justices. M.12.E.4. fol.14. But there it was holden if any lande discend vnto a man by the fathers syde which dyeth without issue, that his next heire on the fathers syde shal inherite vnto hym, that is to say the next of bloud of the father of ỹ graũd fathers syde. And for defaut of such an heyre ther that be of the fathers bloud of the parte of the mothers, of the father (that is to saye) the graũdmother ought to inherit. And if ther be no such heire on the fathers syde, than the lorde shall haue the land by eschete. And so it is if a man take a wyfe inherite in fee siple,

which

which hath issue a son & dieth, & the son entreth into the tenemētes as sonne & heire vnto hys mother, & after dieth wout issue, the heyres on the mothers side ought to inherite the tenemētes, & not the heires on the fathers side. And if there be none heires on the mother side than the lord of whō the same land is holden, shal haue the same lād by eschete. In the same maner it is if landes discend vnto the sōne on the fathers side, & entreth & after dyeth without issue, the land shal discend vnto the heyres on the fathers syde, & not vnto the heires on the mother side. And if ther be none heires on the father side, than the lord of whō the lande is holdē shal haue the same land by eschete. And so ye may se the diuersitie, wher the son purchaseth landes in fee simple, & where he commeth into those landes or tenementes by discent on the father syde or on the mother side.

Also if ther be thre brethren, & the middle brother purchaseth land in fee simple & dyeth wout issue the elder brother shal haue the lād by discent & not the ponger. Also if ther be .3. brethrē, & the pōgest brother purchaseth lād in fee simple & dieth without issue, the elder brother shal haue the lād by discēt, & not the middle brother, for that that the elder brother is more worthy of blond.

¶ And it is to bee vnderstande that no man shal haue lande in fee simple by discent as heyre vnto any manne, but that he be hys heire of the hole blond. For if a mā haue issue .2. sunes, by .2. wentres & the elder purchaseth

land in fee ſimple and dyeth without iſſue, the ponger brother ſhal not haue the land but the vncle of the elder brother or ſome other hyghe coſyn ſhal haue it, for that, that the ponger is but of the halfe bloude to the elder brother. And if a man haue a ſon and a daughter by one wyfe, and a ſon by a nother wyfe, and the ſonne by the firſt wyfe purchaſeth lande in fee ſimple and dyeth without iſſue, the ſiſter ſhall haue the lande by diſcente as heyre vnto her brother and not the younger brother, for that that the ſiſter is of the whole bloude to her elder brother.

And alſo where a man is ſeaſed of land in fee ſimple, and he hath iſſue a ſō and a daughter by one wyfe and a ſon by a nother wyfe and dyeth, and the elder ſon entreth and dyeth without iſſue, the daughter ſhall haue the lande and not the ponger ſon, and yet is the ponger ſon heyre vnto his father and not his brother. But if the elder ſon enter not into the lande after the death of his father, but dyeth before enter made by hym, then the pōger brother may enter and haue the lande as heire vnto his father. But where the elder ſon in the caſe aforeſayde entreth after the death of his father and therof hath poſſeſſiō, than the ſiſter ſhal haue the lande. Quia poſſeſſio fratris de feodo ſimplici facit ſororem eſſe heredem. For the poſſeſſion of the brother in fee ſimple maketh the ſiſter to be heir.

But if there bee two brethren by dyuers wyfes,

ventres, and the elder is ſeaſed in fee ſimple and dyeth without iſſue and his vncle entreth as heire vnto hym, which alſo dyeth without iſſue, than the ponger brother maye haue the lande as heyre vnto his vncle, becauſe he is of the whole bloude to hym though he be but of half bloude vnto his elder brother.

And it is to vnderſtande that this worde inheritaunce, is not onely vnderſtand where a man hath landes or tenementes by diſcent of heritage. But alſo euery fee ſimple or fee tayle that a man hath by his purchaſe, may be ſayde inheritaunce, for that, that his heyres may inherite hym. For in a writ of right that a man bryngeth of land, that was of his own purchaſe, the writ ſhal ſaye: Quam clamat eſſe ius & hereditatem ſuam. That is to ſaye, which he claymeth to be his ryght and his inheritaunce. And ſo it ſhal be ſayde in diuers other writes which a man or a Womā bringeth of theyr owne purchaſe, as it appereth by the regiſter.

And of ſuche thynges as a man may haue a manuell occupacion, poſſeſſion, or reſceit as of landes, tenementes, rentes, and ſuch other, a man ſhall ſay in his pledyng and in way of barre, that one ſuch was ſeaſed in his demeſn as of fee. But of ſuche thynges that lye not in manuell occupacion. &c. as of auowſon of a churche, and ſuch maner thing, there he ſhall ſaye that he was ſeaſed as of fee, and not in his demeſne as of fee. And in latin it is in

the same case sayd. Quod talis fuit seisitus in dominico suo vt in feodo, that is to say, that such one was seased in his demeane as of fee, and in that other, Quod talis fuit seisitus &c. vt de feodo that is to say that one such was seased as of fee.

And note well that a man may not haue a more large ne greater estate of inheritaunce than fee simple.

Also purchase is called the possession of landes or tenementes that a man hath by his dede or by his agrement, vnto which possession he commeth not by discent of any of hys auncestors or of his cosyns, but by hys owne dede.

¶ Fee tayle.

TEnaunt in fee tayle is by force of the statute of westminster the seconde. Capi. primo for at the comon law before the sayde statute, al inheritaunce wer fee simple for al the gyftes which been specified within the same statute, were fee simple condicionally, as it appereth by the rehearsal of the statute. And nowe by the same statute tenaunt in the taile is sayde in two maners, that is to say, tenant in taile generall, & tenant en tayle speciall.

Tenaunt in tayle generall, is wher landes or tenementes be geuen to a man and to hys heyres of his body begotte. In this case it is sayde generall tayle, for that that whatsoeuer woman that the tenant taketh vnto wyfe, yf he haue many wyues, and by eche of the hath

issue

ſſue, yet eche one of theſe iſſues by poſſibi-
litye maye inherite the tenementes by force
of the ſayde gyft. becauſe that euery ſuch iſſue
is of his body engendred.

In the ſame maner is where landes and
tenementes be geuen to a woman and to the
heires cõming out of her body how be it that
ſhe haue many houſbandes, yet the iſſue that
ſhe may haue by eche huſbande may inherite
as iſſue in the tayle by force of ſuche gyftes.
And therfore ſuch gyftes been called general
tayle.

Tenant in tayle ſpeciall, is where landes
and tenementes be geuen vnto a man and his
wife and the heires of theyr two bodyes be-
gotten. In ſuch caſe none may inherit by force
of ſuch gift, but thoſe that be engendred be-
twene them two and it is called eſpecial tail
for that if the wyfe dye, & he taketh another
wyfe and hath iſſue the iſſue of the ſecõd wife
ſhal neuer inherite by force of ſuch gyft. Nor
alſo the iſſue of the ſeconde houſbande yf the
fyrſt huſband dye.

In the ſame maner it is where landes
and tenementes bee geuen by a man vnto a-
nother with a wyfe, which is the daughter or
coſyn to the geuer in franke mariage. which
gift hath inheritance by theſe wordes franke
mariage vnto it annexed, howbeit that they
be not expreſſly ſayde or reherſed in the gifte,
that is for to ſay that theſe donees ſhal haue
theſe lãdes or tenemẽtes to them and to theyr

heyres

heyres betwene them two engendred, & thys is sayde especial tayle for that the issue of the seconde wife may not inherite.

And note wel that this worde tailpare is to say to set vnto some certaintie or els limit vnto some certain inheritance. And for that, that it is limit & set in certain, what issue shal inherite by force of such giftes, and how long that the inheritance shal indure: Therfore it is called in latin feodum talliatum. i. hereditas in quadam certitudine limitata. For if tenant in general taile die without issue the donour or his heires shall inherite as in theyr reuercion. In the same wyse is of the tenant in the tayle special. &c. For in euery gykte of the tayle without; more saying, the reuercion of fee simple is in the donour.

And the donees and theyr heyres shall do to the donour and to hys heyres, suche seruices as the donour dothe vnto his lorde next aboue. Excepte the donees in franke Maryage, whiche shall holde quietely from euerye maner seruice (but if it be for fealtie) vntyll the fourth degree bee passe. And after that the fourth degree is past, the issue in the fifth degree and so forth the other issues after hym, shall holde of the donour & of his heires, as they holde ouer as is afore sayde.

And the degrees in franke mariage shalbe accompted in such maner, that is to say, from the donour to the donees in franke mariage the fyrst degre, for that, ỹ the wife that is one

of

of the donees ought to bee daughter ſyſter or other coſyn to the donour. And from the donees vnto theyr iſſue ſhalbe accompted the ſeconde degree. And from theyr iſſue vnto theyr iſſue, the thyrde degree and ſo forth. &c.

And the cauſe is, for that after euery ſuch gyft, the iſſues that come of the donour, and the iſſues that come of the donees after the fourth degree paſte, of bothe parties in ſuche forme to bee accompted, may betwixt them by the law of holy churche intermarye. And that the donee in franke mariage ſhall be the fyrſt degree of the fowre degrees a man may ſe in a plee vpon a writte of ryght of warde. Anno 31. E. 3. wher the playntyf pleded, that his aſle or graundfather was ſeaſed of certain landes &c. And that he helde of another by knyght ſeruice. &c. whiche gaue the lande vnto one Rafe Holande with his ſiſter in franke mariage. &c. And all theſe tayles befoze ſayde be ſpecified in the ſayde eſtatute of weſtminſter the ſeconde.

Alſo there bee diuers other eſtates in the tayle, howbeit that they be not ſpecifyed by expreſſe wooꝛdes in the ſayde eſtatute, but they betaken by the equitie of the ſtatute, as if landes be geuen vnto a mā & to his heires males of his body engendꝛed. In ſuche caſe his heyꝛe male ſhall inherite, and the iſſue female ſhall neuer inherite, yet in theſe other tayles afoꝛeſayd it is otherwyſe. In the ſame maner it is yf landes be geuen to a man and

to

to heires females of his body engendred. In this case his issue females shal inherit by force & forme of the said gift & not the issue male, for that in such cases wher the gift is, who ought to inherite and who not, the wyl of the donour shalbe observed. And in the case where landes be geuen to a mā & to his heyre males issuyng of his body, & he hath issue two sōnes and deceaseth, the elder sonne entreth as heire male and hath issue a daughter and deceaseth, his brother shall haue the lande and not the daughter, for that the brother is heyre male. But it shal be other wyse in these other tailes aforesayde, which ben especifyed in the sayde estatute, the daughter shall inherite before the brother.

Also yf lande be geuen vnto a man, and to his heyres males of his body engendred and he hath issue a daughter, whiche hath issue a sonne and deceaseth and after that the donor deceaseth: in this case the sonne of the daughter shall not inherite by force of the tayle, for that whosoeuer shall inherite by force of a gyft in the tayl made vnto his heyres males behoueth to conuey his discent alway by the males. M. 18. E. 3. folio. 45. But in suche case the donour shall entre for that the donee is dead without issue male in the lawe. In so muche that the issue of the daughter may not conuey to hym the discent of heyre male. And in the same maner is it where landes be geuen to a man and to his wyfe & to his heyres

males

males of theyr two bodyes ingendred &c.

Also yf tenementes bee geuen to a manne and his wyfe, and to the heyres of the bodye of the manne ingendred, in this case the husbande hath estate in the general tayle and the wyfe but estate for terme of lyfe.

Also yf landes bee geuen to the husbande and to the wyfe, and to the heyres of the husbande which he ingendreth of the body of the wyfe. In this case the husbande hath estate in the speciall tayle, and the wyfe but for terme of life.

And yf the gift be made to the husbande and to the wyfe, and to the heyres of the wyfe of her body by the husband ingendred, than the wyfe hath estate in the speciall taile, and the husbande but for terme of lyfe. But if landes be geuen to the husband and the wife, and to the heyres that the husband ingendreth on the bodye of the wyfe. In this case bothe haue estate in the tayle for that this woorde (heyres) is not limitted no more to the one the to the other.

Also yf landes be geuen to a man and hys heyres that he engendreth on the body of his wyfe in this case the husbande hath estate in the tayle special, and the wyfe nothyng.

Also yf a man haue issue a sonne, and deceaseth, and the lande is geuen to the sonne, and to the heyre of the body of his father ingendred, this is a good tayle, and yet the father was dead at the tyme of the gyft.

Also

Also there be many other estates in the tayle by the equetie of the sayd estatute that be not specified here. But if a man geue landes or tenemētes to another to haue and to hold to hym and to his heyres males, or to hys heyres females, he to whō such gyft is made hath fee simple, for that that it is not limitted by the gyft of what body the issue male or feinale shalbe, and so it may not in any thig be taken by the equitie of the sayd estatute, and therfore he hath fee simple.

Tenant en tayle after possibilitie of issue extinct.

Tenaunt in the tayle after possibilitie of the issue extinct, is wher as landes or tenementes bee geuen vnto a man and his wyfe in speciall tayle, if one of them decease without issue, he that survyueth is tenaunt in the tayle after possibilitie of issue extinct. And yf they haue issue during the lyfe of the issue, he that survyueth shal not be sayd tenāt in the tayle after possibilitie of issue extincte. Yet if the issue decease without issue, so that there be none alyue that may inherit by force of the tayle, then he that survyueth of the donees is tenant in the tayle after possibilitie of issue extinct.

Also if landes be geuen to a man and to his heires that be engendred on the body of his wife. In this case the wyfe hath nought in the tenementes, and the housband is sea-

sed

ſed as donee in ſpeciall tayle. And in thys caſe if the wyfe deceaſe without iſſue of her body engendred by her houſbande, then the houſebande is tenaunt in the tayle after poſſibilitie of iſſue extinct.

And note well that none maye bee tenaunt in the tayle after poſſibilitie of iſſue extincte, but one of the donces or the donee in ſpeciall tayle, for the donee in generall tayle may neuer be ſayde tenaunt in the tayle after poſſibilitie of iſſue extinct, for that alway during hys lyfe, he may by poſſibilitie haue iſſue that may inherite by force of the ſame tail. And ſo in the ſame mañ the iſſue that is heire vnto the donees in a ſpeciall tayle maye not be ſayde tenaunt in tayle after poſſibilitie. &c. cauſa qua ſupra.

Alſo tenant in tayle after poſſibilitie of iſſue extinct, ſhall neuer be puniſhed of waſt, for the inheritance that once was in hym. Anno. 10.H.6.fol.1. But he in the reuercion maye entre, if he doth alien in fee. An.45.E.3.fo.22.

¶ Tenaunt by the curteſy of Englande.

TEnaunt by the curteſye of Englande, is where a man taketh a wyfe ſeaſed in fee ſimple, or of fee tayle generall, or as heyre in the tayle ſpeciall, and hath iſſue by the ſame wyfe male or female. The iſſue after beyng dead or alyue if the wife deceaſe, the huſband ſhal hold the lande during hys life by the law

of

of Englande, and this is called tenant by the curtesye for that it is not vsed in none other realme but onely in Englande. And some say that it shal not be sayd tenaunt by the curtesye, but if that chylde that he hath by his wyfe be hard crye, for by the crye is the proofe that the child that he had by his wife was borne.

¶ Tenant in dower.

TEnant in dower is where a man is seased of certayn landes or tenemētes in fee simple, or in tayle general or as heyre in the tail special and taketh a wyfe and deceaseth the wyfe after the decease of her husband shal be endowed of the thyrde part of suche landes or tenementes that wer her houlbandes in any tyme duryng the coverture, to haue and to holde to the same wyfe in seueraltie by metes and boundes for terme of her lyfe, whether she haue by her houlbande issue or none, and of what age that the wyfe bee, so that she passe the age of nyne yeare at the tyme of her houlbandes death or els she shall not bee endowed. And note well that by the common lawe the wyfe shall not haue for her dower but thyrde parte of the tenementes, whiche were her houlbandes duryng the espousels. By custome of some countrey she shall haue the halfe, and by custome of some towne or boroughe she shall haue the whole, and in all theise cases she shall bee sayde tenaunt in dower.

Also ther is two other maner of dowers, that is to say, dower called dowement in the church dooze and dower called dowment by the fathers assent. Dowement at the churche dooze is, where a man of ful age is seased in fee simple whiche shall be wedded vnto a wyfe, when he cometh vnto the churché dooze, and there after affyaunce, and trueth plight made betwene them, endoweth hys wyfe of his whole lande, oz of the halfe oz lesse parcell, & there openly declare the quantitie and the certayne of hys lande that she shall haue foz her dower. In thys case the wyfe after the death of her housbande shall entre into the said quãtitie of lande, of which her housband endowed her without the assignement of any manne. Downement by the fathers assent, is where the father is seased of tenementes in fee, and hys sonne and heyze apparente when he is wedded, indoweth hys wyfe at the churche dooze of parcell of the landes oz tenementes of his fathers of thassent of hys father, and assygneth the quantitie of the parcelles. In this case after the death of the sonne, the wyfe shal enter in the same parcell without the assignement of any other. But it hath ben sayd in this case that it behoueth the wyfe to haue a dede of the father, prouyng his assent and consent of suche indowement. And if after the deaths of the housbande she enter and agree to anye suche dower of the sayde two dowers at the churche dooze, than she is concluded to claime

any other Dower by the commen lawe of anye landes or tenementes, whiche were of her sayde housebande. But if she will she may refuse suche Dower at the Churche dooze, & than she may be endowed after the course of the common lawe. And note well that no wyfe shall bee endowed of the fathers assent in the fourme aforesayde, saue where the husband is sonne and heyre apparaunte to hys father.

¶ Inquere in these twoo cases of Endowement at the Churche dooze if the wyfe at the tyme of the death of her housebande, passe not the age of.9.yeres, if she shal haue such Dower or no.

¶ And note well, that in all cases where the certaynetie appeareth what landes or tenementes the wyfe shall haue for her Dower, the wyfe maye enter after the deathe of her housebande without assygnement of anye other. But where the certayne appeareth not, as to be endowed of the thyrde parte to haue in seuerall, or to bee endowed of the halfe after the custome to holde in seueraltie. In suche cases it behoueth that her Dower be vnto her assygned after the deathe of her housebande, because it is not limitte beefore the assygnemente what parte of lande or tenementes she shal haue for her Dower. But if there bee twoo ioyntenantes of certayne landes in fee, and the one alyenethy that, that to hym pertayneth and belongeth, to another

ther in fee, which taketh a wyfe and after dyeth. In this cale the wyfe for her Dower ſhall haue the third part of the halfe that her huſbande purchaſed, to holde in common and occuppe in common as her part amounteth with the heyre of her houſeband, and with the other toyntenant whiche altered not, for that in ſuch caſe her dower may be aſſigned by metes and bounder.

¶ And it is to vnderſtande, that the wyfe ſhall not be endowed of landes or tenementes that her huſband toyntly helde with another at the tyme of his death. But where he holdeth in commō otherwiſe it is, as in the caſe aforeſayde. And it is to wit that if the tenant in tayle endowe his wife at the church doze as it is aforeſaid that ſhall ſerue for little or naught to the wyfe for that ꝑ after the death of her huſband the iſſue in the tayle may entre vpō the poſſeſſiō of the wife, & ſo may he in ꝑ reuerē if ther be none iſſue in ꝑ tayle alyue. ¶ Alſo if a manne ſeyſed in fee ſimple being within age endowe his wife at the churche doze, and dyeth, and the wife entreth. In this caſe the heyre of the huſbād may put her out. But otherwiſe it is as it ſemeth where the father is ſeyſed in fee, and the ſonne within age endowe hys wyfe of his fathers aſſente, the father than being of full age.

¶ Alſo there is another Dower whiche is called Dowement de la ptus beale. And that is as in ſuche caſe that a manne is ſeiſed

of.xl.acres of lande, and he holdeth.xx.of the
sayd.xl.acres of one man by knightes seruice,
and the other xx.acres of an other in socage, &
taketh a wyfe, and hath issue a sonne, and di-
eth his sone being within the age of.14.yeres
and the lord of whom the lande is holden by
knightes seruice entreth into the.xx.acres of
lande holden of hym, and them hath and occu-
pyeth as warden in chiualrye during the chil-
des nonage, and the childes mother entreth in
the remnaunt, and it occupyeth as garden or
warden in Socage. If in thys case the wyfe
bring a writte of Dower agaynst the war-
den in chiualrye to be endowed of the tene-
mentes holden by knightes seruice in the kin
ges court or in anye other court, the warden
in chiualrye may plede in such case all the ma-
ter, and shew howe the wife is warden in so-
cage as it is aforesayd, and prayed that it may
be adiudged by the court that the wife endow
her self of the most fayre called plus beale of
the tenementes that she hath as wardeyn in
socage after the value of the third parte that
she claymeth to haue of the tenementes in chi
ualrye by her writ of Dower, and if the wife
may not gainsay it, then the iudgement shalbe
made that the Wardein in chiualrye shal hold
the landes holden of hym during the nonage
of the chylde quyte from the woman &c. And
that the woman may endowe her selfe of the
most fayre part of the landes that she hath, as
wardeyn in socage to the value of the thyrde

parte

parte that the wardeyn in chiualrye hath. &c. And after suche iudgement geuen, the wyfe may take her neyghboures, and in theyr presence endowe her self by metes and boundes of the fayrest part of the tenementes that she hath as wardeyne in socage to the value of the thyrde parte of the landes that the warden in chiualrye hath, and that to haue & hold for terme of her lyfe. And suche dower is called dower of the fayrest part or de plus beale.

¶ With thys agreeth. 9. xlb. E. iii. fol. 4. But there it was sayd, that after the time that the heyre come to his full age, the wyfe shall haue a newe action of dower agaynst the heyre to be endowed of the third part of al that the mā dyed seised And note well that such dowemēt may not be, but where the iudgement is geuē in the kinges court, or in sōe other court. And the wyfe may doe this for saluacion of the state of the warden in chiualry during the nonage of the childe. And so ye may see fyue maner of dowers, that is to say dowement by the common lawe, dower by custome, dower at the church dooze, dower of the fathers assent, and dower of the most fayre. And remember that in euery case where a man taketh a wyfe seased of such estate of tenementes &c. so that the issue that he hath by his wyfe may by possibilitie inherite the same tenemētes of such estate that the wyfe hath, as heyre to the wyfe: In such case after the wyfe is dead, he shall haue the same tenementes by the courtesy of Eng-

land, and otherwise not.

¶ And also in euery case where the wife taketh an husband seised of such estate of tenementes. &c. so that by possibilitie it maye happe the wife to haue some issue by her husband, & that the same issue may by possibilitie inherite the same tenemētes of such estate that the husband had, as heyre to his father, of such tenementes she shall haue her dower, and otherwise not. For if the tenementes be geuen vnto a man & to the heyres that he geatteth on his wifes bodi, in such case the wife hath naught in the tenemtz. And the husband hath estate but as done in special taile. yet if the husbād die without issue, the same wife shalbe endowed of the same tenemtz, for that the issue that she by possibilitie might haue had by the same husband, may inherite the same tenemtz. But if the wife decease liuing the husband, & after taketh another wife, the second wife shal not be endowed in this case, Causa qua supra.

¶ A manne was seised of certain landes, and toke a wife, and after alened the same landes with warrantye, and after the feoffour and feoffee died, and the wife of the feoffour bringeth an action of dower agaynst the issue of the feoffee, and he vouched the heyre of the feoffour, and during the voucher and not termined, the wyfe of the feoffe bringeth an action of dower against the heyre of the feoffe, and demaundeth the third parte of al that her husebande was seised, and would not demaunde

maunde the third part of those two parties that her housebande was seised it was iudged that she shoulde haue no iudgement vntil the tyme that the other plee were determined. And also note that Mauasour sayeth, that if a manne be seised of landes and committeth felonye, and alieneth, and after is attaynted, the wife shall haue good accion of dower agaynst the feoffee. But if it bee escheted vnto the kyng, or vnto the Lorde, she shall haue no writte of dower. And so see the diuersitie, and inquere the cause.

¶ Tenant for terme of lyfe.

TEnant for terme of life, is where a manne letteth landes or tenementes to a man for terme of life of the lessee, or for terme of lyfe for an other man. In such case the lessee is tenant for terme of lyfe. But by common language he that holdeth for terme of his owne life, is called tenant for terme of life, and he that holdeth for terme of another mānes life, is called tenant for terme of another mannes life. And it is to be vnderstande, that there is feoffour and feoffe, donour and donee, lessour and lesse. The feoffour is properly where a man enfeoffeth another in ampe landes or tenemētes in fee simple, he that maketh the feffemēt is called feffour, & he vnto whō the feffemente is made, is called feoffee, and the donoure is properlye where a manne geueth certayne landes or tenementes to another in

the tayle, he that maketh the gift is called donour, and he to whom the gyft is made is called doner. And lessour is properlye where a man letteth to an other certayn landes or tenementes for terme of lyfe, for terme of yeres, or to holde at will, he that maketh the leas is called lessour, and he to whome the leas is made is called lessee. and euery one that hath estate in landes or tenemētes for terme of hys owne life, or for terme of an other mans lyfe, is called tenaunt of free holde. And none of lesse estate may haue free holde but they of greter estate may haue free holde, for tenant in fee simple hath free hold: and tenant in the tayle hath also free holde.

Tenant for terme of yeres. Cap. 7.

Tenant for terme of yeres is, where a man letteth landes or tenemētes to an other for terme of certayne yeres after the noumber of yeres that is accorded betwene the lessour and the lesse, and when the lessee entreth by force of the leas, thā is he tenant for terme of yeres and if the lessour in such case reserue to hym a yerely rent vpon such lees, he may chose for to distreyne for the rent in the tenemētes letten, or elles he may take an accion of det for the arrerages against the lessee. But in suche case it behoueth that the lessour be seysed in the same tenemētes at the tyme of his lees for it is

it is a good plee for the lessee to say that the lessour had nothing in the tenementes at the tyme of the leas except the lease be made by dede endented in which case than such plee lyeth not for the lessee to plede.

¶ And it is to vnderstande that in a lease for terme of yeres by dede or without dede, it needeth no liuere of seisin to be made to the lesse, but he may enter whansoeuer he will by force of thesame lease. But of feoffementes made in the countrey or gyftes in the tayle. or leases for tme of lyfe. In such cases where free hold shall passe if it bee by dede or without dede, it behoueth to haue liuery of seisyn &c. But if a man let landes or tenemētes by dede or without dede for terme of yeres, the remaynder oner to an other for terme of lyfe, or in the tayle or in fee than in such case it behoueth that the lessour make liuere of seisi to the lesse for tme of yeres or elles there shall nothinge passe to them in the remayndre, though the lesse enter in the tenementes. And if the lermour in such case ētre before any suche liuere of seisi made vnto him than is the free hold and the reuercion in the lessour. But if he make any liuere of seisin vnto the lessee, than it is free holde with the fee of thē in the remayndre after the fourme of the graunt and will of the lessour.

¶ And if a manne will make a feoffement by dede or without dede of landes or tenemētes that he hathe in moe townes than in one in one shire, if the liuere of seisin be made in one

parcel

parcel of the ſeiſyn in one towne in the name of al it ſufficeth for al the other landes or tenemẽtes cõprehended in the ſame feoffmẽt in al other townes in the ſame ſhyre. But if a mã make a dede of feffement of landes or teniz in diuers ſhyres, there it behoueth him to haue in euery ſhyre a liuere of ſeiſin. And in ſuch caſe a mã ſhal haue by the grãt of another fee ſimple, fee taile, or free hold without liuere of ſeiſin. And if .ii. mẽ be eche of thẽ is ſeiſed of a quãtite of land within one ſhire, & the one grãteth his land to the other in exchãge for the land that the other hath, & in the ſame maner the other granteth his land vnto the firſt grantour in exchange for the land that the firſt grantour hath. In this caſe eche may entre in the other landes ſo taken in exchange without any liuere of ſeiſin. And ſuche exchaunge made by wordes of tenementes within the ſame ſhire without any wryting is good ynough. And if the landes or tenementes bee in dyuerſe ſhyres that is to ſaye, if that the one haue in one ſhyre, & the other hath in an other ſhyre, it behoueth to haue a dede indented made betwene them of ſuch exchaunge.

¶ And note that in exchange it behoueth that the eſtates that both parties haue in the landes ſo exchanged be egall. For if the one wilieth and granteth that the other ſhal haue his lande in the tayle, for the land that he hath of the graunte of the other in fee ſymple, though the other is agreed to that, yet thys exchange is but

is but voyde, for that the estates be not euen.
¶ In the same maner it is where it is granted and agreed betwene the that the one shal haue in the one land fee taile, & the other shal haue in the other land but terme of life. Or if one shall haue in the one land fee tayle general, and the other in the other land fee tayle especial. So alway it behoueth that in exchãge the estate of both parties be euẽ, that is to say if that one haue fee simple in that one lãd, that the other shal haue such estate in the other lãd and if the one hath fee tayle in the one land, than the other shal haue likewise in the other lãd. Et sic de aliis statibus. But it is nothing to charge of the euen value of the landes, for though that the land of that one is so muche more in value, than the lande of the other, thys is nothynge to purpose, so that the estates made by the exchaunge be euen, and so in exchaunge by two grauntes, for euer part grant eche his land to the other in exchange, and in eche of their grauntes mencion shall be made of the exchaunge.
¶ And if a mã let lãd to another for terme of yeres, though the lessour dye before the lessee enter into the tenemẽtes, yet may he enter into the tenemẽtes after the death of the lessor, for that. ỹ the lessee by force of the lease, hath right incontinent to haue the tenementes after the fourme of the lease. But if a manne make a dede of feoffemẽt vnto another, & a letter of attorney to a manne to deliuer to hym

seisin

seisin by force of the same dede, yet if the liuere of seisin be not made in the syght of hym that made the dede, it auayleth not, for that the other hath no maner of right to haue the tenementes after the purporte of the dede before the liuere of seisi &c. And if no liuere be made than after the deth of him that made the dede the right of such tenementz is continent in hys heyre or in some other. Also if tenementes be lette to a man for terme of halfe a yere, or for terme of a quarter of a yere &c. In such case if the lessee make waste, the lessour shall haue agaynst hym a writte of waste, and the writte shall saye: Quitenet ad terminum annorum. But he shall haue a speciall declaration vpon the trouth of this matter, and the plee shal not abate the wrpt for that, thathe may haue no other writ vpon the matt. Anno. 7. H. 7. fol. 1.

¶ Tenant at will. Ca. 8.

TEnaunt at will is, where landes or tenementes be letten by a man vnto an other, to haue and to holde to him at the will of the lessour, by force of whiche lease the lessee is in possession. In suche case the lesse is called tenant at will, for that he hath no certayn sure estate for the lessor, may put him out at what time it pleaseth him, yet if the lesse sowe the lande and the lessour after the sowing and before that hys greynes be ripe putteth him out yet shal the lesse haue hys greynes, & shal haue free egresse and regresse to reape and to cary

hys

hys greines, for that he will not at what time his lessour would enter vpō him. Otherwise it is if tenant for terme of yeres before ꝑ end of his terme soweth the land, and the terme is ended before that hys greynes be rype. In thys case the lessour, or he in the reuercyon shall haue the greynes, for that the farmour knew well the certayn of his terme & whan his terme should be ended.

¶ Also if an house be lette to a man to holde at will, by force of which the lesse entreth into the house, within which house he bringeth hys houshold stuffe, and after the lessour putteth him out, yet shall he haue free entree, egresse and regresse in the same house by reasonable time to cary his goodes and houshold stuffe. And if a man be seised of a house in fee simple, fee tayle, or for terme of lyfe, the which hath certayn goodes within the same house, and maketh hys executours and discerseth, whosoeuer after his death hath the house yet shal his executours haue free entre, egresse & regresse to carye out of the house the goodes of theyr testatours by a reasonable tyme.

¶ Also if a man make a dede of feoffemente vnto an other of certayn land, and deliuereth to him the dede but no liuery of seisin. In this case he to whome the dede is made may enter into the land, and hold & occupy it at the will of hym that made the dede for that, that is proued by the woordes of the dede, that it is his will that the other shall haue the lande. But

he that

he that made the dede, may put him out when he will.

¶ Also if an house be let to holde at will, the lessee is not holden to sustayne or repayre the house, as tenant for terme of yeres is holden to doe. But if the lessee at will make voluntary wall, as in pullig down of houses, or in cutting or felling of trees: It is sayd that the lessour shall haue for that against hym an accion of trespas. As if I deliuer to a man my sheep to donge or marle his land, or myne oxen to eyze his land, & he slayeth my beastes, I may well haue an accion of trespas agaynst hym notwithstanding the deliuere.

¶ Also if the lessour vpon suche lease at will reserue vnto him a yerely rent, he maye dystreyn for the rent behynd, or to haue for that an accion of Dette at his owne choyse. H. vi. R. ii. in Replesum.

¶ Tenant by coppe of courte rolle. Cap. 9.

TEnaunte by coppe of court rolle, is as if a manne be seised of a Maner within which Maner there is a custome, and hath been vsed tyme out of mynde, that certain tenantes within the same maner haue vsed to haue landes or tenementes to holde to the & to their heyres in fee simple or in fee tayle, or for terme of life. &c. at the will of the lord, after the custome of the same maner. And suche a tenaunte maye not aliene the lande by dede, for that

the

the Lorde maye entre as in a thynge forfayte to hym. But if he will aliene hys lande to an other, hym behoueth after some custome to surrender the tenementes in some courte. &c. vnto the lordes handes to the vse of hym that shall haue the estate in such fourme or to such effect. Ad hanc curiam venit. A. de. B. & surrendidit in eadem curia vnum messuagium &c. in manus domini ad vsum. E. de. A. et heredum suorum vel heredum de corpore suo exeunt vel pro termino vite sue &c. Et super hoc venit predictus E. de A. & cepit de domino in eadem curia messuagium predictum. &c. habendum & tenendum sibi & heredibus suis, vel sibi & heredibus de corpore suo exeuntibus, vel sibi, ad terminum vite sue, ad voluntatem domini secundum consuetudinem manerii, faciend, & reddendum inde reddit, debit, seruicia, consuetudines inde prius debitas, & de iure consuetas, & dat domino de fine &c. Et fecit domino fidelitatem &c. That is to say A. of B. cummeth vnto thys court, and surrendreth in the same courte a mese. &c. into the handes of the Lorde, to the vse of E. of. A. and hys heyres, or to the heyres, issuynge of hys bodye, or for terme of lyfe &c. And vpon that, cummeth the foresayde E. of A. and taketh of the Lorde of the same court the foresayd mese. &c. to haue and to hold to him and to his heyres, or to him & to his heires issuing of his body, or to hi for terme of life at ye lordes will after custome of the maner, to dos & yeld

ther-

therfore rētes, dettes, services, and custome
therof before dewe and accustomed. &c. & ge-
neth the Lorde for a fyne. &c. and maketh fo
to the lord his fealtie. &c. And such tenauntes
been called tenantes by Copy of court rolle
for that they haue none other euidence con-
cernyng theyr tenementes, but the copies o
the court rolles, and such tenauntes shal no
implede nor be impleded of theyr tenementes
by the kinges writ but if they will implede o-
ther for their tenemtes they shal haue a playnt
made in the court of the lord in such fourme
or to such effect. A. de. B. queritur versus C. d
D. de placito terre, videlicet de vno mes wa-
gio quadraginta acris terre quatuor acris p
ti. &c. cum pertinenciis. Et facit protestacio
nem sequi querelam istam in natura breui
domini Regis assise mortis antecessoris a
communem legem, vel breuis domini regi
assise none disseisine ad communem legem.
That is to say. A. of B. complayneth against
C. of D. of a plee of lande, that is for to saye
of a mese. and. xl. acres of land, fowre acres
medowe. &c. with the appurtenances and m
keth protestacion to sue his playnt in natur
of the kinges writ of assise of the death of hi
antecessour at the common lawe, or by writ
of our souerayn lord the king of assise of nou
disseisin at the common lawe, or in nature o
some other writte &c. pledges and proces. f
G. And though that some such tenantes ha
inheritance after the custome and maner, ye
they

they haue none eſtate but at the lordes wyll, & after the cours of the common lawe, for it is ſayd yf the lorde put them out, they haue none other remedy but to ſue vnto the lorde by petition. For yf they had any other remedy, they ſhould not be ſayde tenaunts at the Lordes wyll, after the cuſtome of the maner, but the lorde wyll not breake the cuſtome that is reaſonable in ſuche caſes. But Brian chyef Juſtice ſayth, that his oppinion alwayes hath been and alwayes ſhalbe, if ſuch a tenaunt by cuſtome (paying his ſeruices) bee caſt out by the lorde he ſhall haue an accion of Treſpas agaynſt hi. H. 21. E. 4. And likewiſe was ꝯ oppinion of Danby chief Juſtice. M. 7. E. 4. for he ſayth that the tenant by the cuſtome is as well inherite to haue his lande after the cuſtome aſwell as he that hath frankftenement by the comon lawe.

Tenauntes by the parde, be in ſuche nature as tenauntes by copy of court rolle. But the cauſe for which they be called tenauntes by the rodde or parde, is for that whan they wyll ſurrender theyr tenementes into the lordes hande to the vſe of another, they ſhall haue a litle parde or rodde, by the cuſtome & vſe of theyr handes which they ſhall deliuer vnto the Stewarde or baylife, after the cuſtome and vſe of the maner. And he that ſhal haue the land ſhall take the ſame lande in the court, and his taking ſhalbe entred in ꝯ rolle and the ſtewarde or the baylife accoꝛding to

to the custome shall deliuer vnto hym that taketh the land the same yarde or another yarde in the name of seisin. And for this cause they be called tenauntes by the yarde. But they haue none other euidence but copy of ꝑ court rolle.

¶ And also in diuers lordshippes and maners there is such custome, if suche a tenaunt that holdeth by the custome will alyen hys landes or tenementes, he may surrendre hys landes vnto the bailiffe or to the reue, or to two sad men of thesame Lordship, to the vse of him that shall haue the lande, to haue in fe simple, fee taple, or for terme of lyfe. &c. and all that shall they presente at the next courte. And than he ꝑ shall haue the land by coppe of court rolle, shall haue thesame lande after the entent of the surrendre. And so it is to wete that in diuers lordshippes and diuers maners ther be made diuers customes in such case, as to take tenauntes and as to plede and as touching other thinges and customes to be done and all that that is not against reaſō may well be admitted and alowed. And such tenauntes that holde after the custome of a seignorye or after the custome of a maner though thei haue estate of inheritance after the custome of the lordship or of the maner, yet because thei haue not any freholde by the courte of the common law, they be called tenantes by base tenure.

¶ And diuers diuerlities ther be betwene a tenaunt at will which is in by the lessee of his

lessour

lessour by the cours of the common law, and tenaunt after the custome and maner in the forme aforesaide. ¶ Or tenant at wyll after the custom may haue estate of inheritance as it is aforesayde at the lordes wyll after the custome & vsage of the maner. But if a mā haue tādes or tenementes which be not within such maner or lordship where such custome hath been vsed in the forme aforesayde, and wyll let such landes or tenementes to another, to haue and to holde to hym and to his heyres at the wyll of his lessour these words to the heyres of the lesse, be voide for this is the cause if the lesse dye, and his heire entreth the lessour shal haue a good accion of trespas against hym, but not so against the heire of the tenāt by the custome &c. in any case for that the custome of the maner in some case may helpe hym to barre hys lorde in any accion of trespas.

¶ Also tenaunt by the custome in some places ought to repayre and sustayn the houses and the other tenaunt at wyll ought not. Also one by the custome shal dooe fealtie and the other not. And diuers other dyuersities there be betweene them.

¶ Thus endeth the fyrste Booke.

(.)

HOmage is the moſt honorable ſeruice and moſt humble ſeruice of reuerence, that a frankteuaunt maye doe to his lorde. For whan the teuaunt ſhal make homage to his lorde he ſhall deſcende and his head vncouered, & his lord ſhall ſit, and the tenant ſhall knele before him on both his knees, & holde his handes ſtoyntly together betwene the handes of his lord, and ſhall ſay thus. I become your man from this daye forwarde of lyfe and lymme & of earthly worſhip and vnto you ſhall bee true & faythful, and bere you faith of the tenementes that I clayme to hold of you ſauing the fayth that I owe vnto oure ſouerayngne lorde the kyng. And whan the Lorde ſo ſyttyng ſhall kyſſe hym.

But yf an Abbot or a priour or any other man of religion ſhall make homage vnto hys lorde he ſhall not ſaye. I become your manne for that he hath profeſſed hymſelf onely to be goddes man. But he ſhall ſay thus, I do you homage and vnto you ſhall bee trewe & faithfull, and bere you fayth for the tenemētes that I clayme to holde of you. Sauyng the fayth that I owe vnto our ſouerayngne Lorde the kyng.

¶ Alſo yf a woman ſole ſhall make homage vnto her Lorde. She ſhall not ſaye I become your woman. For that is not conuenient for a woman to ſaye that ſhe ſhall become the woman to any but onely to her huſ-

bande

bande when she is wedded. But she shal say I make vnto you homage, and to you shal be true and faythfull and shall bere you fayth of the tenementes that I hold of you, sauing the faith that I owe vnto our souerayne Lorde the kyng.

¶ But if a man haue seueral tenācies which he holdeth of seueral lordes, that is to say euery tenancy by homage. Than whan he maketh homage vnto one of his Lordes he shall say in the end of his homage. Sauing the faith that I owe vnto the king and vnto my other lordes.

¶ And note wel that none make homage but such as hath estate in fee symple or in fee tayle in his own right or in another mannes right. For it is a grounde in the lawe, that he that hath estate but for terme of lyfe, shall make none homage nor take none homage. For yf a woman haue landes or tenementes in fee symple or in fee tayle which she holdeth of her Lorde by homage and taketh an housbande and hath issue, than the husbande in the lyfe of the wyfe shal make homage, for that he hath tytle to haue the lande by the curtesy yf he survyue hys wyfe. And also he holdeth in ꝯ ryght of hys wyfe. But afore yssue betwene them, the homage shal be made in both theyr names. But yf the wyfe decease before homage made by the husband in the wyues life, and the husband holdeth hymself in as tenant by the curtesy he shall make no homage vnto

his lord, for that he hath than none estate but for terme of lyfe. More shalbe sayd of homage in the tenure of homage auncestrel.

¶ Fealtie. Cap. 2.

FEaltie is as much to say as fidelitas in latin, and whan a frankstenaunt shall make fealtie vnto the Lorde he shal hold his right hande vpon a boke and shall say thus.

¶ Heare you this my lord, that I vnto you shalbe faithfull and trewe, & beare you fayth of the landes or tenementes that I clayme to holde of you, and truely to you shall dooe the customes and seruices that I ought to dooe vnto you at termes assigned, as god me helpe and al his sainctes, & than he kisseth the boke. But he shall not kneele whan he maketh hys fealtie, nor shall make such humble reuerence as is afore sayde in homage. And great diuersitie there is had betwene making of fealtie & of homage. For homage may not be made but to the lorde hymselfe. But the Stewarde of the lordes court or the bailife may take fealtie of the lorde.

¶ Also tenant for terme of life shall make fealtie, and yet he shall make none homage for diuers other diuersities ther be betwene homage, and fealtie.

¶ Also a manne maye see a good note Anno. 15. E. 3. where and howe a manne and his wife made homage and fealtie in the comō bank, which is writte in such forme. Note that

that Iohn Lewkenor and Elizabeth his wife made homage vnto william Thorpe in thys maner. The one and the other hylde ioyntlye their handes betwene the handes of willyam Thorpe, and the husband sayd in this wyse, we vnto you make homage and beare you fayth for the landes that we holde of A. your Conulour which hath graunted you our seruices in B. and in C. and the other townes, &c. against all men, sauing the fayth that we owe vnto our souerayne lorde the kyng and to his heires and to our other lordes, and the one and the other kissed hym. And after they made fealtie, and the one and the other hylde their handes together, vpon a boke, and the husbande sayde the wordes and both kyssed the boke. More shall be sayde of fealtie in the tenure of Socage and in the tenure of franke almoyne, and in the tenure of homage Auncestrell.

¶ Escuage.

EScuage is called in latin Scutagium, that is to say seruice of shielde. And such a tenãt that holdeth his lande by escuage, holdeth by knightes seruice. And also it is comenly sayd that some hold by a fe of knightes seruice and some by the halfe fee of knightes seruice. &c. And it is sayd that whã ꝑ kyng maketh a voyage royal into Scotlãd for to subdue ꝑ Scots he that holdeth by a fee of knightes seruice, behoueth to bee with the king by .xl. dayes well and conenably arrayed for the war. And

lyke wyse he that holdeth his lande by the half of a fee by knightes seruice, ought to be with the kyng by .xx. dayes. And he that holdeth hys lād by the fourth part of a fe by knightes seruice, hym behoueth to be with the kyng by x. dayes. And so after the quantitie, he that hath moze to do moze and he that hath lesse to do lesse. But it appeareth by the plees and argumentes made in a good plee vpon a wryte of Detenue of an obligacion brought by one Harry Gray. Anno. 7. E. 3. That it nedeth not to hem that holdeth by escuage to go hymselfe yf he will synde an able parson for the warre couenably arrayed for the warre to go wyth the kyng, and that semeth good reason. For it may be that he that holdeth by such seruice is syche in suche wyle, that may not go nor ryde.

¶ And also an Abbot or any other man of religion or a woman sole that holdeth by such seruyce, ought not in such case to go in proper parson. And syr william Herle that time chief Justyce of the common place sayd in the sayd plee that escuage shall not bee graunted but where the kyng hymself goeth in proper parson. And so it abode in iudgement in the same plee yf these .xl. dayes shalbe accompted from the day of the muster of the kinges host made by the commons and by the kynges commaundement. Or els from the day that the kyng fyrst entreth into Scotlande. &c. therefore inquere of this matter.

¶ And after suche voyage into Scotlande

it

it is commonly sayde, that by the auctoritye of parliament the escuage shall be set and put in certayne, that is for to saye a certayn somme of money, howe much euery that holdeth by a whole fee of knyghtes seruice which was not in his own proper parsō, nor none other with hym with the kyng shall paye vnto the Lorde of whom he holdeth his lande by escuage. As put case that it was ordeined by auctoritie of parliament that euery that holdeth by a whole fee by knyght seruice which was not with the kyng, shall pay to his lorde. xl. s. Than he that holdeth by the halfe of a fee by knyghtes seruice shall paye vnto his lorde but xx. s. and so who more more, and who lesse lesse. And some tenauntes hold that yf escuage renne by autorite of parliament to any summe of money that they shall paye but the halfe of that sōme e sūme but the fourth part of that sōme. But because the escuage that they shall pay is not certayne for that it is at no certayn what the parliament wil assese the escuage they holde by knyghtes seruice. But otherwyse it is of escuage certayne of which shalbe spoken of in the tenure of socage.

And yf a man speake generally of escuage it shall bee vnderstande by the common speache of escuage not certayne whiche is knyghtes seruyce. And suche escuage draweth vnto hym homage, and homage draweth vnto hym fealtie, for fealtie is incident to euerye maner of seruyce, but to the tenure of

franke

franke almoygne as it shalbe sayde hereafter in tenure of franke almoygne. So as he that holdeth by escuage holdeth by homage, fealtie, and escuage.

¶ And it is to be vnderstande that whan escuage is so sessed by auctho̅rtie of parliament euery lo̅rde of whom the lande is holden by escuage shall haue the escuage so sessed by the parliament because it is vnderstande by the lawe that at the beginning such tenementes were geuen by the lo̅rdes to hold by such seruices to defende theyr lo̅rdes as well as the kyng and to set in quiet and rest theyr lo̅rdes and the kyng of the Scottes afo̅resayd. And fo̅r that suche tenementes came fyrst of the Lo̅rdes, it is reason that they haue the escuage of theyr tenementes.

¶ And the lo̅rdes in such case may distreyn fo̅r the escuage so assessed o̅r they may haue the kinges writtes directe vnto the Sherifes of the Shyres to leuy suche escuage fo̅r them as it appeareth by the register. Fol. 88.

¶ But of such tenauntes that holde of the kyng by escuage which wer not with the kyng in Scotlande, the kyng himself shall haue the escuage.

¶ Item in suche case afo̅resaide, where the kyng maketh a voyage royall into Scotland, and the escuage is assessed by the parliament, if the lo̅rde distrayne his tenaunt that holdeth of hym by seruice of a whole knightes fee fo̅r the escuage so assessed, &c. And the tenāt pleadeth

and will auerre that he was with the kyng in Scotlande. &c. by. xl. dayes, and the lord will auerre the contrarie, it is sayd that it shall bee tryed by the certificacion of the constable of the kynges hoste, in writting vnder hys seale which shalbe sent to the iustices.

Homage fealtie, and escuage.

TEnure by homage, fealtie and escuage, is to holde by knightes seruice & it draweth vnto him warde, mariage, and relief. For whā such a tenant dyeth his heire male being with in age of. xxi. yere, the lord shall haue the lande holden of hym vntyll the age of the heyre of xxi. yere, which is called plaine or ful age for that such an heire by the vnderstanding of the lawe, is not able to do knyghtes seruyce before the age of xxi. yere.

AND also yf suche an heyre be not maryed at the tyme of the death of his auncester than the Lorde shal haue the warde and maryage of hym. But yf suche a tenaunt dye, hys heyre female beyng of the age of. xiiii. yeare or more than the Lorde shall not haue the warde nother of the lande nor of the body, for that a woman of suche age maye haue an husbande able to doe knightes seruyce. But yf suche an heyre female bee within the age of xiiii. yeare and not maryed at the tyme of the deth of her ancester, thā the lord shal haue the

warde

warde of the lande holden of hym tyl the age of ſuch an heyre female of. xvi. yere. For that it is geuen by the ſtatute of weſtmynſter the fyrſt. cap. 22. that by two yere next folowyng the ſayde. xiiii. yere, the Lorde maye tender a conuenyent mariage without dyperagyng of ſuche an heyre female. And yf the lord do not tender her ſuche mariage within the ſaid two yere, than she at the ende of the ſayd two yere may enter and put out the lorde. But yf ſuche an heyre female be maryed within the age of xiiii. yere in the lyfe of the aunceſter, and the aunceſter dye she beyng within the age of xiiii. yere the lorde ſhall haue but the warde of the lande tyll a ende of. xiiii. yere of age of ſuche an heyre female. And than her huſband and she may enter into the lande and put out the lorde, for this is out of the caſe of the ſtatute. Inſomuch that the lorde can not tender mariage to her that is maryed. &c. For before ỹ ſayd eſtatute of weſtmiſter the fyrſt ſuch iſſue female that was within age of. xiiii. yere at the tyme of the death of her aunceſter, and after that she had accõpliſhed the age of. xiiii. yere without any tender of mariage to her by the Lorde ſuche an heire female than myght enter into the lande and put out the lorde as it appeareth by the reherſal & by the wordes of the ſame eſtatute. So that the ſayde ſtatute was made in ſuch caſe all for the auauntage of the lorde as it ſemeth. But yet that at all tymes is vnderſtande by the wordes of the

ſame

ſame eſtatute, that the Lorde ſhall not haue the two yere after the .xiiii. yere as it is afore-ſayde.

¶ And note well that the full age of heyre male and female after the common ſpeache, is ſayde the age of .xxi. And the age of diſcre-cion is ſayde the age of .xiiii. yere for a childe at ſuch age whiche is wedded within ſuche age to a woman may agree to the maryage or dyſagree.

¶ And yf the wardeyne in chyualrye mary once his warde within the age of .xiiii. yere, & after the age of .xiiii. yere he diſagreeth to the maryage. It is ſayde by ſome folke that the chylde is not holden by the lawe to bee ma-ryed another tyme by his wardeyne, for that the wardeyne had once the mariage of hym, and therfore he was out of his ward as con-cernyng the warde of his body. And whan he had once the mariage of hym & therfore was out of his ward he ſhall no more haue the ma riage of hym. In the ſame maner it is yf the wardeyne marye hym and the wyfe dye, the childe beyng within age of .xiiii. yere, or .xxi. yeres. And that the chylde maye diſagree to ſuch mariage whan he come to the age of .xiiii yere it is proued by the wardes of the ſtatute of Marton Cap. 6. that ſayth thus. De domi-nis qui maritauerint illos quos habent in cu-ſtodia ſua villanis & aliis ſicut burgences vbi diſparagẽtur, ſi tales homines fuerit infra. 14 annos et talis etatis q̃ matrimonio ꝓſẽtire nõ

poſſint,

poſſint, tunc ſi parentes illius conquerantur
dominus ille amittat cuſtodiam illam vſq; ad
etatē heredis. Et omne cōmodū q̄ inde recep-
tum fuerit conuertatur in cōmodū heredis in
fra etatem exiſtentis ſecundum diſpoſitionem
parentum ꝓpter dedecus et impoſitum. Si
autem fuerit .xiii. annozum et vltra qua con-
ſentire poterit, et tali maritagio conſenſerit
nulla ſequatur pena. And ſoit is ꝓoued by
the ſame ſtatute that no dyſperage ſhalbe
where that he that hath the warde marie
hym within the age of .xiii. yeare.

Alſo it hath bene a queſtion howe thes
wozdes ſhould be vnderſtande. Si parentes
conquerantur. &c. And it ſemeth vnto ſom
that conſideryng the ſtatute of Magna car
cap. vi. that wylleth that heredes maritent
abiq; diſperagacione. &c. vpon which this ſ
ſtatute of Marton vpon this point is grou
ded as it ſemeth and in ſo muche that it we
neuerſene that any accion was brought b
the ſtatute of Marton foz ſuche diſparagy
agaynſt the wardeyne, and yf any accion
be taken vpon ſuche matter it ſhal be taken
commune preſumpcion befoze this time, of
ſome time to bee put in vze, that theſe wozd
ſhal be vnderſtande in ſuch maner. Si paren
tes conquerantur. i. Si parentes inter ſe l
mentantur, which is as muche to ſaye that
the colyns of ſuche a child haue cauſe to ma
lamentacion and complaynt among theim
the ſhame done to theyz colyn ſo dyſparage

which is in a maner a ſhame to them all, than may the nert coſyn to whō the heritage may not deſcende, enter and put out the wardeyn in chiualry. And yf he wyll not, another coſyn of the chyldes may dooe it and he to take the lues and profytes vnto the vſe of the chylde and of that yeld the chylde accompt whan he commeth vnto his full age. Or els the chylde within age may enter himſelf and put out the wardeyn. &c. Sed quere de hoc.

¶ Alſo there is many other diuers diſperagynges, which be not ſpecifyed in the ſame eſtatute. As yf the heyre that is in warde be maryed vnto one that hath but one foote, or one hād or is deformed or lame, or hauing an horrible diſeaſe. or els a great and continuall impotencie or yf the heyre male bee maryed to a woman paſſed chylde bearyng. And manye other cauſes of diſperagyng ther be, but inquier of them for it is good matter to learne. And if heyres males that be vnder age of .xxi. yere, after the death of theyr auncеſtors vnmaryed. In ſuch caſe the lord ſhal haue the maryage of ſuche an heyre, and haue ſpace & tyme to tender to hym conenable maryage without diſperagyng within the ſame tyme yf .xxi. yeare.

¶ And it is to wytte that the heyre in ſuche caſe may chooſe yf he wyll bee maryed or no. But yf the Lorde whyche is called wardayne in Chiualrye tender a conenable maryage to ſuche an heyre,

within

within the age of.xxi.yere without dyſpet-
gyng and the heyre refuſe. and mary not hi
ſelf within the ſame age. Than the ſayd wa
deyne ſhall haue the value of the maryage
ſuche an heire. But if ſuche an heire male m
ry himſelf within the age of.xxi.yere agai
the wyll of the wardeyne in chiualrye. Th
ſhall the wardeyne haue double the value
that mariage by the force of the eſtatute
Marton aforeſaide, as in the ſame ſtatute
more fully comprized.

¶ Alſo diuers tenātes hold of their lord
by knightes ſeruice, and yet thei holde not
eſcuage nor paye no eſcuage as they that ho
theyr landes by caſtel warde that is to ſaye
kepe a towre of a caſtle or a gayle, or ſome
ther place by reaſonable warnyng whā th
lordes here tell that enemies wyl come o
come into Engiand. And in many other ca
a man may holde by knightes ſeruice, and
he holdeth not by eſcuage nor payeth no eſc
age as ſhalbe ſayde in the tenure of graun
ſergeauntie. But in all caſes where a man
holdeth by knyghtes ſeruices ſuche ſeru
drawyth to the Lorde warde and mariage.
And yf a tenaunt that holdeth of his lorde
ſeruice of an whole knightes fee dye, his h
beyng at ful age of.xxi.yere his heyre ſhal
vnto his lord. C.s. for a releſe & he that h
deth by the half fee ſhall pay.l.s.

¶ Alſo yf a man holde his land of his lo
by the ſeruice of two knightes fees than
hi

heyre at full age at the tyme of the deathe of hys aunceſtre, ſhall pay to hys Lorde.x.li. for reliefe.

¶ Alſo if there be graundfather, mother, and ſonne, and the mother dyeth liuing the father of the ſonne, and after the graundfather which held hys lande by knightes ſeruice dyeth ſeiſed and the lande deſcendeth to the ſonne of the mother, as heyre to the grandfather which is within age. In ſuch caſe the lord ſhal haue the warde of the land but not the warde of the heyre. For that none ſhalbe in ward of his body liuing hys father, becauſe the father duryng hys lyfe, ſhall haue the mariage of hys heyre apparaunt, and not the Lorde. Otherwyſe it is if the father be dead liuyng the mother, where the land holden in chiualrye deſcendeth to the ſonne on the fathers ſyde. &c.

¶ Alſo if a manne be ſeyſed of land which is holden by knyghtes ſeruice, and maketh feoffment in fee to hys vſe, and dyed ſeyſed to the vſe of hys heyre within age, & no will by hym declared, the lord ſhall haue a writte of ryght, of the body and the land. Lykewyſe if the tenaunt had dyed ſeyſed of the demeine. And if the heyre be of full age at the death of hys auncestre: In ſuch a caſe he ſhall paye reliefe, lykewiſe if he had been ſeiſed of the demeſne, and that is by the ſtatute of Anno.4.H.7. Cap.7.

¶ Alſo there is a warden in ryght chiualry, & warden in dede in chiualry, warden in ryght chiualrye, is where the Lorde becauſe of hys

lordship is seiled of the ward of ȳ land, & the heyre vt supra. warden in dede in chiualry, in where the lorde in suche case after hys seysyn granteth by dede or without dede the warde of the land or of the heyre or of bothe. to another man by force of which graunt. the graunte is in possession. than is the graunte called warden in dede. &c.

¶ Tenure in socage. Cap. 5.

TEnure in socage, is where the tenant holdeth of hys lorde hys tenauncy by certayn seruice for all maner of seruice so that the seruice bee not knyghtes seruice. As where a manne holdeth his lande of his Lorde by fealte and certayne rente for all maner of seruice, or elles where a manne holdeth hys lande by homage fealtee, and certayne rente for all maner of seruices, for homage by hymself maketh not knightes seruice.

Also a mā may hold of his lord only by fealte, & such tenure is tenure in socage, for euery tenure ȳ is not tenure in chiualry, is tenure in socage. And it is sayd that the cause wherfore such tenure is sayd and hath the name of tenure in socage is thus. Quia hoc socagium idē est ȳ seruicē soce. Et hec soca soce idē est ȳ caruca. s. one soke or one plough land. And in old time before ȳ lamitaciō of tyme of myn[d] gre[at]

great part of the tenantes that hyld of theyr lordes by socage, oughte to come with theyr plowes euery of the sayd tenantes by certain dayes in the yere, to eyre and sowe the lordes landes of hys owne graynes. But for that suche woorkes were doone for the ryuelode and sustenaunce of their lordes, they were acquited against their lorde of all maner of seruices. And for thys that suche seruice was doone with their plowes, suche tenure was called tenure in socage. And after that suche seruice were chaunged in dyuers other maner seruice by consent of the tenauntes, and by the desyre of theyr lordes, that is to sayn into a pereiye rente &c. But yet the name of socage abydeth, and in dyuers places tenantes yet dooe suche seruice with theyr plowes vnto their Lordes, so that all maner of seruices that be not tenures by knyghtes seruice be called tenures in socage.

¶Also if a manne holde of hys Lorde by escuage certayne. That is to saye in suche fourme, that when escuage renneth and is assessed by the parlyamente to a more summe or to a lesse summe, that the tenaunte shall paye to hys Lorde, but halfe a marke for escuage, and neyther more ne lesse, to howe great summe or little summe that the escuage runneth in thys case, because the escuage is in certayne, before that anye escuage is assessed &c. Such tenure is tenure in socage and not knyghtes seruice. But where the

somme that the tenant shall paye for escuage, is not certayn, that is to say where it may be that the somme that the tenant shall paye for escuage may be at one time more and another lesse, after that it is assessed &c. thā such tenure is tenure by knyghtes seruice.

¶ Also if a man hold hys land for to pay certayn rent to hys lord for castel warde, such tenure is tenure in socage. But where the tenantes selfe ought by hym or by any other to make castel warde, such is tenure by knightes seruice.

¶ Also in all cases where the tenant holdeth of hys lorde to paye to hym any certayn rent, that rent is called rent seruice.

¶ Also in such tenures in socage, if the tenant haue issue and dye, hys issue beyng within the age of .14. yere, than the next frend of the heyre to whom the heritage may not discende shall haue the warde of the land, and of the heire vnto the age of the heyre of .14. yere, and such wardeyn is called warden in socage. For if land dyscend to the heyre by the father syde than the mother, or some other nygh cosyne of the mother syde shall haue the warde, And if land dyscend to the heyre by the mother syde than the father or the next frēd of the father syde shall haue the ward of such landes or tenemēres. And whan the heyre cometh to the age of .14. yere complet, he may enter and put out hys wardeyn in socage, and occuppe the land hymselfe if he will. And such warden in

socage

Socage shall take no issues or profites of suche landes or tenementes to hys owne vse, but onely to the vse and profyte of the heyre, and of that shal yeld account whan it pleaseth the heyre after that the heyre hath accomplyshed the age of.14.yere. But such a wardeyn vpon such accounte shall haue allowance of all hys reasonable costes and expences of al thynges. And if such a wardeyn marry the heyre within age of 14.yere, he shall make account to the heyre or to his executours of the value of the mariage, though he toke nothyng for the value of the mariage, for that it shall be erected hys own foly, that he would marye him without takyng the value of the mariage without he marye hym to such a mariage that is worth in value as much as the mariage of the heyre &c. Also if anye other man that is not a nygh frend. &c. occupy the landes and tenementes of the heyre as wardeyn in socage he shall be compelled to yeld account vnto the heyre, as well as hys next frend. For it is no plee for hym in a wrytte of account to saye that he is not hys nygh frend &c. But he shall aunswere whether he occuppeth the landes or tenemtz as warden in socage or not. But inquire if after that the heyre haue accomplyshed the age of.14.yere, and the warden in socage continually occuppeth the lande tyll the heyre cometh to full age of.xxi.yere. If the heyre at hys full age shall haue an accion of accounte agaynst the wardeyn of the tyme that he hath occupy-

ed after the sayde fowretene yeres, as agaynst hys warden in socage, or agaynste hym as agaynste hys baylyfe.

¶ Also if wardeyn in chiualrye make his executoures, and dye, the heyre beyng within age &c cetera, the executoures shall haue the warde, durynge the nonage. But if the wardeyn in Socage make executoures and dye, the heyre beeyng within age of fourtene yeres, hys executoures shall not haue the warde. but an other nigh frende to whom the herytage maye not dyscende, shall haue the warde. And the cause of diuerlitie is, for that the wardeyne in chiualrye hathe the warde to hys proper vse, and the wardeyne in Socage hathe not the warde to hys owne vse, but to the vse of the heyre. And in such case, where the wardeyne in Socage dyeth before anye suche accoumpte made by hym, the heyre is of that withoute remedye, for that no wrytte of accoumpte lyeth agaynste the executoures, but onely for the kynge. Also the Lorde of whome the lande is holden in Socage after the deathe of hys tenaunte, shall haue relefe in suche fourme. If the tenaunte holde by fealtee, and certayne rent to pay yerely. &c cetera. If the termes or payment bee to paye by two termes of the yere, or by fowre tearmes of the yere, the Lorde shall haue of the heyre of hys tenaunte, asmuch as the rent amounteth that he shoulde paye by yere. Also if the tenaunte hylde of the

lorde

lorde by fealtie, and .x. shyllinges of rent payable at certayn termes of the yere, than the heyre shall paye to the Lorde .x. shyllinges for reliefe aboue thes ten shyllynges that he shal paye for the rente. Looke more in the statute of Anno .xii. Henrye the seuenth. Capitulo .xv. And in suche case after the deathe of the tenaunte, such reliefe is due to the lord incontinent, of what age soeuer the heyre bee, for that such a lorde may not haue the warde of the bodye nor the lande of the heyre. And the lord in such case ought not to abyde the payment of hys reliefe after the termes & dayes of payment of the rent, but he ought to haue hys reliefe incontinente. And therefore he maye incontinent dystrayne after the deathe of his tenaunte for the reliefe. In the same maner it is, where a tenaunt holdeth of hys lord by fealte, and by a pounde of cummyn, or a pound of pepper by the yere, and the tenant dye the lord shal haue for his reliefe a pounde of comin or a pound of pepper.

In the same maner it is, where the tenāt holdeth to pay by yere a certayn noumber of capons or hēnes, or a payre of gloues, or certain buchels of wheate, & suche other maner thing. But in some case the lorde ought to abyde to distrayne for hys reliefe tyll a certayne tyme. As if the tenaunte holde of hys lorde by a rose or by a buchel of roses to pay at the feast of S. Iohn baptist. If such a tenaunte dye in winter, than the lorde may not distrayne for

hys relicke &c. butyl the tyme that the roſes h
the courſe of the yere may haue theyr grow
inges. &c. Et ſic de ſimilibus. Alſo if any pa
aduenture wyl aſke why a man may not ho
of his lord by fealte only for al maner of ſer
ces, inſomuch whan the tenant ſhal make h
fealtie he ſhal ſweare to hys lord that he ſh
dooe al ſeruices due, and whan he hath ma
fealtie in ſuch caſe, there is none other ſeruic
due. To thys it may be ſayde, that where t
tenant holdeth hys land of hys lord, yt beh
ueth that he ought to dooe to hys lorde ſom
maner of ſeruice, for if the tenaunte nor h
heyres ought to dooe no maner of ſeruice
hys lord nor to hys heyres, than by long ti
continued it ſhoulde be out of remembrauns
of whom the land was holden, of the lord
of hys heyre or not, and than more after a
more ſoner wyll men ſay that the land is n
holden of the lord nor of hys heyres thā oth
wyſe and vpon thys the lord ſhall loſe hys
chete of the lande, or percaſe other forfaytu
or profyt that he myght haue of the land. S
it is reaſon that the lord and hys heyres ha
ſome ſeruice done vnto hym for a proofe a
a wytnes that the land is holden in franka
moygne as ſhalbe ſaid in frank almoygne, a
becauſe that the lord wil not at the begynn
of the tenure haue any other ſeruices but fe
tie, it is reaſon that a manne may hold of h
lord only by fealte, and whā he hath made h
fealte, he hath done all hys ſeruice.

All

Also if a man lette to another for terme of yse certayn landes or tenementes without speakyng of any thyng to yelde to the lessours yet he shall doe to the lessour fealte, for that he holdeth of hym. Also if a lease be made to a mã for terme of peres it is sayd the lessee shall do to the lessour fealte, for yͤ he holdeth of hym. And thys is proued well by the wordes in a writte of waste when the lessour hath caused to bryng a writte of waste agaynst hym the which writte shall say that the lessee holdeth the tenemẽtz of the lessour for terme of peres. So the writte proueth a nature betwene the ge. but he that is tenant at wil after the course of the common law, shall make not fealte, because he hath no maner of sure estate. But otherwyse it is of tenaunt after the custome of the maner, because that he is bound to dooe fealte to hys lorde for two causes, one is because of custome, the other is because before that he take hys estate in such fourme to dooe fealte.

¶ Frank almoygne. Cap. 6.

TEnure in Frank almoygn, is where an abbot or priour, or another man of religion, or of holy churche holdeth of hys lorde in Frank almoygne, that is to say in latine. In liberam elemosynam, that is to say in free almes. And such tenure began fyrst in olde tyme was letted whan a man in olde tyme was seysed of landes or tenementes in hys demeine, as of

fee,

fee, and of the same lande ensuffed an abbot & his couent a prpour and his couent to haue & to hold of them and their successours in pure & perpetuall almes, or in frank almoygn, or by such wordes to hold of the grantour or of the lessour & his heyres in free almes. In such case the tenementes wer holden in frank almoygn, & in the same maner it is, where the landes or tenemtes wer granted in old tyme to a dean & Chapter & to theyr successours or to a parson of a church and to his successours or to any other man of holye churche & to his successours in free almes if he had capacite to take such grauntes or feoffemētes. &c. & such as hold in free almes be bound of right afore god to doe orysons, prayers, & masses & other diuine seruice for the soules of the grauntours or feoffours, or for the soules of theyr heyres which be dead, and for the prosperitie & good life of them that be alyue.

¶ And for thys, they dooe at no tyme no maner of fealte vnto theyr lordes for ỹ suche diuine seruice is better for them beefore God than any dooing of fealte, and also that these wordes free almes, or frank almoygn excide the lord to haue any worldly or tēporal seruice but only to haue diuine and spiritual seruice to be done for hym. &c. And if suche that holde theyr tenementes in free almes, or franke almoygne will not or fayle to doe such diuine seruice as it is sayde the lorde may not distrayne them for the seruice vndone. &c. because

ause it is not set in certayn what seruice they
ought to dooe but the lord may of that com-
playne to theyr ordinarye, prayng hym that
he will sette punyshemente and correction of
that, And also to prouyde and see that suche
negligence be no more done, and the ordinary
of right ought to done that &c.

¶ But where an abbot or a pryour holdeth of
his lord by certayn diuine seruice in certayne
to be done, as for to syng a masse euery fryday
in the weke for ꝑ soules &c. or euerye yere at
such a daye to sing Placebo & Dirige &c. or to
find a chaplayne to syng masse &c. or to distri-
bute in almes to an hundred poore men an
hundred pence at such a day, in such cas if such
diuine seruice be not done the lord maye dys-
trayne &c. for that this diuine seruice is in cer
tayn by their tenure what ꝑ abbot or the pri-
oure ought to dooe. And in suche case the
Lorde shall haue the fealte. &c. as it seemeth.
And suche tenure is not sayde tenure in free
almes, but it is sayde tenure by diuyne ser-
uice, for in tenure in free almes, or franke al-
moygne, no mencyon is made of anye man-
ner certayne seruyce, for none maye holde
in free almes or franke almoygne if there be
expressed anye maner certayne seruice that he
ought to dooe.

¶ Also if it be demaunded if the tenaunte in
franke mariage shall dooe fealtie to the do-
nour or to hys heyres before the fowerth de-
gre be passed &c. it semeth that ye, for he is not

lyke

lyke as to thys entent to a tenaunt in free al
mes or frank almoygne for that the tenant i
free almes shall dooe, because of hys tenur
dinine seruice for hys lord as it is afore sayd
and that he is charged to dooe by the lawe
holy churche, and for that he is excused an
dyscharged of fealte. But tenant in frank ma
riage doeth not by hys tenure suche seruice
And if he dooe not to hys lord fealte, than h
doeth not to hys lorde any maner of seruy
neyther spiritual nor temporal, which shou
be an inconuenience and agaynst reason th
a man should haue estate of inheritance of a
other, and yet the lorde shall haue no mane
of seruice of hym as it semeth, & so it semeth
that he shall dooe fealte to his lord before th
fowerth degree be past. &c. And whan he ha
done fealte, he hath done all hys seruice. A
if an abbot hold of hys lord in fre almes, an
the abbot and hys couent vnder theyr cõmo
seale alien thesame land, to a secular man
fee symple, in thys case the secular man sha
dooe fealte to ꝯ lord for that he may not ho
of hys lord in free almes, for if the lord ough
not to haue of hym fealtee, than he shal ha
of hym no maner of seruice which should b
an inconuenience where he is lord, and the
nement is holden of hym.

¶ Also if a man graunt at his day to an abbo
or to a pryour, landes or tenementes in fre
almes or frankealmoygne, these wordes fre
almes or franke almoygne be doyde, for tha
it i

is ordeyned by the statute which is called Quia emptores terrarū, whiche statute was made. Anno. 18. regis E. primi. That no man may alien or graunt landes or tenementes in fee symple to hold of hymself, so that if a man seysed of certayn landes or tenemētes which he holdeth of hys lorde by knyghtes seruice & at hys day he graunteth the same lande to an abbot &c. in free almes or frank almoygne, the abbot shall holde immediatlye the same tenementes by knyghtes seruice of the lord of his grantour because of the same estatute, so that no man may holde in free almes or in franke almoygne, but if it be by tytle or prescripcion, or by force of a graunt made to some of hys p̄decessours beefore the same statute. But the kyng maye geue landes or tenementes in fee symple to hold in fre almes or frank almoygn or by other seruice for he is out of the case of the statute, and note well that no man maye hold landes or tenementes in free almes, but of the grauntour or hys heyres, and that for the p̄uitte of the gyft, and therfore it is said that if ther be lord meine and tenant, and the tenant is an abbot that holdeth of hys meine in frankalmoygne, if the meine dye without heyre than the menalte shall come by eschete to the said lord aboue, and the abbot than shal hold of hym immediatly only by fealte, & shall ooe hym fealte, for that he may not holde of hym in frank almoygne. &c.

And note well, where that such a man of religi-

religion holdeth hys landes of his lord in fre
almes &c. his lord is bounde by the lawe to ac-
quite hym of euery maner of ſeruice that an
lord aboue hi will demaũd or aſke of theſame
tenãtes. And if he acquite hym not but luſtre
hym to be dyſtrayned &c. than he ſhal haue a
gaynſt hys lorde a writte of meſne, and rec-
uer hys damages and coſtes of hys ſuite.

¶ Homage aunceſtrel. Cap. 7.

TEnure by homage aunceſtrell is, where
tenaunt holdeth his land of his lord by ho
mage, and theſame tenant and hys aunceſt
whole heyre he is hath hold of theſame lande
of the ſayd lord and of his aunceſtres, whic
heyre the lord is from time out of mynd by h
mage & haue done homage vnto hym which
called homage aunceſtrell because of the co
tinuance which hath been by tytle or preſcrip
tion in the tenancie, in the blood of the tenã
& alſo in the lordſhyp in the blood of ꝑ lorde
And ſuch ſeruice by homage aũceſtrel dra
eth to hym warranty if the lord that is alyue
hath receyued homage of ſuche a tenaunt, h
ought to warrant his tenant whan he is im
pleded of the landes holden of hym by ho
mage aũceſtrel And alſo ſuche ſeruice by ho
mage aũceſtrel draweth to hym acquittance
that is to ſay, the lorde ought to acquyte hy
tenaunt agaynſt al other lordes aboue hym
euery maner of ſeruice. And it is ſayde that
ſuch tenaunt be impleded by a Precipe quo
redd

reddat &c. and he voucheth hys lorde to warranty, which cometh in by proceſſe and aſketh of the tenant what he hath to bynde hym to warrantye, and he sheweth howe he and hys aunceſtres whoſe heyre he is haue holden the lande of the vouchee and of hys aunceſtres, whoſe heyre he is by homage fro tyme out of mynd, if the lord which is vouched receyueth none homage of the tenant, nor of any of hys aunceſtres, the lord than if he will, may diſclayme in the lordshyp, and ſo put out his tenant of hys warranty. But if the lorde which is vouched hath receiued homage of the tenant or of any of hys aunceſtres, than may he not diſclayme but he is bound by the lawe to warrant the tenant, & than if the tenaunt leſe the land in defaut of the vouche he ſhal recouer in value againſt the vouche of the landes or tenementes that the vouche of the lãdes & tenementes that the vouche had at the tyme of the vouche or any time after. And it is to wete, that in euery caſe wher the lord may diſclaym in hys lordshyppe by the lawe in courte of record, & of that will diſclayme hys ſeignory is extinct, & the tenant ſhal hold of his lord next aboue the lord which ſo diſclameth. But if an abbot or a pryour be vouched by force of homage aunceſtrel &c. though he hath neuer take homage & cetera, yet he can not diſclayme in this caſe nor in none other caſe, for they cãnot deuyſe that thing in fee which hath been vſed in their houſe. Paſche. 7. E. quarti.

Also

¶ Alſo if a man that holdeth hys lande by homage aunceſtrell alyeneth hys lande to another in fee the alien ſhall dooe homage to hys lorde. But he holdeth not of hys lord by homage auncestrell for that the tenancy was not continued in the hold of the auncestres, of the alien, nor the alien ſhall neuer haue the warrantie of hys land of hys lord, for that the continuance of the tenancye in the tenant and in hys blood by the alienacion is dyſcontinued and ſo ſee that the tenaunte that holdeth hys lande by homage aunceſtrel of hys lorde, and ſuch a tenaunt alieneth in fee, though that he take eſtate of the aliene agayne in fee he holdeth the land by homage, but not by homage aunceſtrell.

¶ Alſo it is ſayd, that if a man hold hys land of hys lorde by homage and fealte, & he hath made homage and fealte vnto hys lorde & the lord hath ſſue a ſõne, and dyeth, and the lordſhyp diſcendeth to his ſonne. In thys caſe the tenant which dyd homage to the father, ſhall not dooe homage to the ſonne for that when a tenant hath made ones homage to hys lorde he is excuſed for terme of hys lyfe to make homage to any other heyre of the lorde. But yet he ſhal dooe fealte to the ſonne and heyre of hys lord though that he made fealte to the father.

¶ Alſo if the lorde after the homage is made by hys tenant graunt the ſeruice of the tenaunt by deede vnto another in fee, and the tenant

tenant attorneth. &c. the tenant shal not be cõpelled to doe homage but he shal doue fealtye though he dyd fealte before to the graũtor for fealte is incident to euery attornement whan the lordship is graũted. But yf a mã be seised of a manour, and another man holdeth his land of hym as of the manour aforesayde by homage, & which hath done homage to his lord which is sealed of the manour if after that a straũger bryng a Precipe quod reddat agaynst the lord of the manour & recouereth the manour agaynst hym and sueth execution &c. in thys case the tenaunt shall once again doe homage to him that recouereth the manoure for that the state of hym which receiued homage before is defeted by the recouere. And it shall not lye in the mouth of the tenaunt to falsefy or defete the recouere which was againſt his lord, and so se the diuersite. In this case wher a man commeth to his lordship by recouere, & wher he commeth by discent or graunt of the seygnorye.

¶ And if a man tenant which ought by his tenure to do homage to his lord come to hys lord and say to hym, syr I owe to do vnto you homage for the tenementes that I hold of you and I am redy to do you homage for the same tenementes for the which I pray you that ye will now receiue it and yf the lord than refuse to receyue it, than after suche refuse the lorde may not distrayn the tenaunt for the homage before that the lord require the tenant to doe

homage and the tenant refuse to do it.

¶ Also a man may holde his lande by homage auncestrell and by escuage or by other knyghtes seruice as well as he myght holde hys lande by homage auncestrel in Socage.

¶ Graunde sergeauntie. Cap. 8.

TEnure by graunde sergeauntie is where a man holdeth his landes or tenementes of our souerayne lorde the kyng, by the seruyce which he ought to doe in his owne proper person, as to bere the kynges baner or his spere, or to lede his hoste, or to be his marchall, or to beare his sweorde before hym at his coronacion, or to be his keruer, or butler or to be one of his chãberlaynes of his rescept of his escheker, or to doe such seruices. &c. and the cause wherfore such seruice is called great sergeaunt, is for that it is more honorable and worshipfull, & dygne, than is the seruice of the tenure by escuage for he that holdeth by escuage is not limitted by his tenure to doe any more especiall seruyce than any other that holdeth by escuage ought to doe. But he that holdeth by graunde sergeaunty, ought to do a special seruice to ꝑ kyng. But he ꝑ holdeth by escuage ought not to do.

¶ Also if the tenaunt which holdeth by escuage dye. his heyre beyng at full age, if he hylde by a knyghtes fee, the heyre shall pay but an. C. s. for his relefe. as it is ordeined by statute of magna carta. Cap. 2. but he that hol-

det

deth of the king by graund ſergeantie & dyeth his heire beyng of full age, ſhall pay vnto the kyng for his relief the value of his landes or tenementes by yere, beſyde the charges and reprpples which he holdeth of the kig by grād ſergeantie. And it is to wete that ſeriantia in latin is ſeruicium. and ſo magna ſeriantia is magnum ſeruicium, that is to ſay a great ſeruice.

Alſo thoſe which hold by eſcuage ought to doe theyr ſeruice out of the realme but they that holde by graunde ſergeaunt for the moſt part ought to doe theyr ſeruyce wythin the realme.

Alſo it is ſayde that in the Marches of Scotlande ſome holde of the kyng by coynage that is to ſay to blowe an horne for to warne the men of the countrey. &c. whan they here that the Scottes or other enemyes wil come or ēter into Englād. &c. which ſeruīce is grāū ſergeaunt. &c. but if any tenaunt holde of anye other lord than of the kyng by ſuche ſeruice of coynage, that is not graunde ſergeauntie, but it is knightes ſeruice, & dyaweth to him ward mariage, and relief, for none may hold by grād ſergeaunte but of the kyng onely.

Alſo a man may ſee in the. xi. yere of Henry the fourth that Cokayn than beyng chyefe baron of theſchequer came into the common place bryngyng with hym a coppe of recorde in theſe wordes. Talis tenet tantam terrā de domino rege per ſeriantiam ad inueniendum

Unum hominē ad generam infra quatuor ma-
ria.&c. That is to say, suche a man holdeth so
much land of our souerayne lord the kyng by
sergeauntie to warre within the foure seas, &
he demannded whether he was graunde ser-
geauntie or petie sergeauntie, and Hanke the
sayde that it was graunde sergeantie, for that
it was seruice to be done by the body of a mā
and yt that he may not synde a man to do the
seruice for hym he muste doe it hymselfe. To
whō the other iustices assented Cokayne the
sayd, the tenaunt in this case shall pay reyeve
to the value of the lande by yere, to the which
was none aunswer, and note that al they that
holde of the kyng by graunde sergeaunt, hold
of the kyng by knyghtes seruice, and the kyng
of that shall haue warde marryage and reyefe
but the kyng shall not haue of them escuage
they holde not by escuage.

¶ Petite sergeauntie. Cap. 9.

¶ Enure by petite sergeauntie is wher a man
holdeth his lande of our souerayngne lorde
the kyng to yelde vnto him yerely a Bowe, or
a sweord, or a dagger, or a knyfe, or a spere, or
a payre of gloues of Mayle, or a payre of
spurres gylte, or an arowe, or diuers arowes
or to yelde such other smal thynges touchyng
the warre and such seruice is but Socage in
effect for that ỳthe tenāt by his tenure ought
not to go nor to do any thīg in his own per-
parson

parson touchyng the warre. But to yeld and paye yerely certain thynges vnto the kyng as a manne ought to pay a rent. And note that no man may holde lande by graund sergeante nor by petit sergeauntie but of the kyng.

¶ Burgage. cap.10.

TEnure in Burgage is where an auncient Borough is of the which the kyng is lorde and they that haue tenementes within the borough hold of the kyng theyr tenementes that euery tenaunt for his tenement ought to paye to the king a certain rent by yere.&c. And such tenure is but tenure in socage and the same maner is where another lorde spirituall or temporall is lord of suche a borough and the tenauntes of the tenementes in such a borough holde of theyr Lorde to paye eche of them yearely an annuell rent, and it is called tenure in Burgage for that the tenemētes within the borough bee holden of the lord of ȳ borroughe by certayn rent.&c. And it is to wete that the auncyent townes called boroughes bee the most auncyent and eldeste townes that bee within England for the townes that be now be cities or countreys in olde tyme were boroughes and called boroughes for of such old townes called boroughes come these Burgeses of the parlyament to the parlyamente whan the kyng hath summoned hys parlyament.

Also for the greatter parte of suche boroughes haue diuers customes and vsages which be not had in other townes for some borough hath such custome that if a man hath issue of many sonnes & dieth the yongest sonne shall inherite all the tenementes which were his fathers within the same borough as heire vnto his father by force of the custome the which is called borough Englishe.

Also in some boroughes by the custome the wyfe shal haue for her dower al the tenementes which wer her husbandes.

Also in some borough by the custom a man may deuise by his testamente by his landes & tenementes which he hath in fee simple within the same borough at the tyme of his death and by force of suche deuise to whom such deuyses is made after the death of the deuisor may enter in the tenementes to hym deuised to haue and to holde to hym after the fourme and effecte of the deuise without any ipuent of seisin therof to be made to him.

Also though a man may not graunte or geue his tenementes to his wyfe during coueriture for that that his wyfe & he bee but one parson in the lawe yet by such custome may deuise by his testament his tenementes to his wyfe to haue and to holde to her in fee simple or in fee tayle, or for terme of lyfe or peres for ỹ such deuise taketh none effect but after the death of the deuisor. And if a man diuers times make diuers testamentes and

ue

ners deuises.&c.yet the last deuise & wil made by hym shall stande and abyde.

¶Also by such custome a man may deuyse by his testament that his executours maye alien and sell the tenementes that he hath in fee simple for a certayne summe to distrybute for the soule in this case though the deuysour dye seased of the tenementes and the tenementes descende vnto his heire yet the executours after the death of the testatour may sel the tenementes so deuised and put out the heyre and therof make a feoffement alienacion and estate by dede or without dede to the to whom the sale is made vnto.

¶And so may ye see here a case where a manne maye make a lawful estate and yet he hath nought in the tenementes at the time of theestate made & the cause is for that that the custome and vsage is suche. Quia consuetudo ex certa causa rationabili vsitata priuat communem legem. For a custome vsed vpon a certayn reasonable cause barreth the cõmon law And note wel no custom is to be alowed but such custom as hath bene vsed by title of prescripcion that is to say, frõtime wherof is no mynd. But diuers opiniõs haue bene of tyme out of mind & of title of prescripciõ which is all out in the law, for some men haue sayde that the time of minde shoulde be sayde for time of limitacion in a writ of ryght, that is to saye, to the tyme of kyng Rychard the fyrste after the conquest, as is geuen by the statute of

weſtmynſter the fyrſt, for that a writ of ryght is the moſt hyeſt writ in his nature that may be. And in ſuch a writte a man maye recouer his ryght of the poſſeſſion of his auncеſters of the moſt auncyēt tyme that any man may by any writte by the law. And in ſo muche that it is geuen by the ſayde eſtatute that in ſuche a writte none ſhalbe harde to aſke of the ſeiſin of his auncеſters of moze longer tyme than of the tyme of kyng Rychарde afozeſayde, therfoze this is proued that continuaunce of poſſeſſion oz other cuſtomes & vſages vſed after the ſame tyme his title of preſcripcion, & this is certayn. And other haue ſaid that wel and truth it is that ſeiſin and continuaunce after the limittacion. &c. is a tytle of preſcripcion as is afozeſayd and by the cauſe afozeſayde. But they haue ſayd that there is alſo another title of preſcripcion that was in the commō law before any eſtatute of limytacion of writtes &c. and that it was where a cuſtome oz vſage oz other thyng had bene vſed fro tyme where mynde of man runneth not to the contrarye, and they haue ſayd that this is proued by the pledyng where a man wyll plede a tytle of preſcripcion of cuſtome. &c. he ſhall ſay that ſuche cuſtome hath bene vſed fro tyme wherof the memoryе of men runneth not to the contrary, that is as much to ſay, whan ſuche a matter is pleted that no manne than alyue hath harde one proofe to the contrary, noz hath no knowledge to the contrarye: and in ſo muche that ſuch

ſuch tytle of preſcripcion was at the common
law and not put out by none eſtatute. Ergo
it abideth as it was at the common law, and
the ſoner in ſo muche that the ſayd ymmittacō
of a wrytte of ryght. ꝛc. is of ſo long time paſ-
ſed. Ideo quere de hoc, and manye other cu-
ſtomes and vſages haue ſuche auncyent bo-
roughes.

¶ Alſo euery borough is a towne, but not
to the contrary. more ſhalbe ſayd of cuſtomes
in the tenure of villeynage.

¶ Villeynage. Cap. II.

TEnure in villeynage is moſt properly whē
a villayn holdeth of his lorde to whom he
is villain certayn landes and tenementes af-
ter the cuſtome and maner or eis at the wyll
of his lorde and to doe his villayn ſeruice, as
to beare, bryng, and carye out the donge and
filth of the lord vnto the land of his lord ther
to lay it, caſt it, and ſpreade it abrode vpon the
land, and to do ſuche other maner of ſeruice, ⁊
ſome free tenauntes holde theyr tenementes
after the cuſtome of certayn manours by ſuch
ſeruice, and their tenure is called tenure in vil
leynage, ⁊ yet they be no villaines, for no lāde
holden by villeynage or villeyn landes, or any
cuſtome ryſyng of the lande ſhall neuer make
free man villeyn. But a villayn may make fre
land to be villayn land vnto his lord, as yf a
villayn purchaſe lād in fee ſimple or in fe tail,
the lord of the villain may ēter into the lād ⁊
put out his villayn ⁊ his heyres for euer, and

after the lorde yf he wyll he may let the la
lande to the villayne to holde in villeyna
Also if a feoffement be made to a certayn p
son or parsons in fee to the vse of a villay
or yf a villayn or any other parsons bee
feffed to the vse of a villayn, what eſtate ſ
uer the villayn hath in the vſe, in fe tayle
terme of life, or peres, the lorde of the villa
may enter in all thoſe landes and tenemen
lykewyſe as yf the villain had bene alone
ſed of the demeine. And that is by the ſtat
of. Anno. 19. H. 7. But yf a free man wil ta
any landes or tenementes of his lorde by ſu
villayn ſeruice, that is to ſaye to pay a fyne
his lorde for his mariage or for the mary
of his ſonne or his daughter, than ſhal he
ſuche a fyne for the maryage. &c. for that
the folye of ſuche a free manne to take in ſuc
fourme landes or tenementes to holde of
lorde by ſuch bondage, yet that maketh not
free man villayn.

¶ Also euery villayn eyther he is villay
by preſcripcion, that is to ſay, he and his an
ceſſers haue bene villayns tyme out of myn
or he is villayn by his own confeſſiō in co
of recorde. But if a free man haue dyuers
ſues, and after confeſſeth hymſelf to be vill
to another in court of recorde, yet his iſſ
which he hath before the confeſſion be fre, b
the iſſue which he ſhal haue after the confe
&c. ſhalbe villaynes.

¶ Also if a villain purchaſe landes & alye

eth the same lādes to another before his lord
ter than the lord may not enter for it shalbe
dged his own folye that he entred not whē
e land was in his villayns handes. And so
is of his other goodes for yf the villayn bie
sel or geue goodes to another before that the
yd sealeth the goodes thā the lord may not
ase thē but if the lord before any such sale or
ft cōmeth within the house of the villayne,
ther such goodes be or ther openly among the
eighbours clayme the same goodes to be his
nd so seiseth parcel of the same in name of se=
in of all the goodes. &c. This is said a good
in in the law. And the occupacion that the
llain hath after such claim i the goodes shal
e taken in the law in the right of the lorde.

¶ But yf the kyng haue any villayne that
rchaseth lādes and alyeneth before that the
ing enter yet the kyng maye enter in the lād
whose handes the land commeth to. Or yf
he villayne bye or sell diuers goodes before
hat the kyng sease the goodes yet the kyng
aye sease them in whose handes that euer
hey be. Quia nullum tempus occurrit regi,
or no tyme renneth agaynst the king.

¶ Also yf a manne lette lande to another
or terme iyfe, saupng the reuercion to him
nd a villayne purchaseth of the lessour the
euercion, in this case it semeth that the lord
of the villayne maye incontinent come to the
lande and clayme the same reuercion as lord
of the same villayne and by thys clayme
the

the reuerſion is incontinent in hym for in
other fourme he may not come to the reuer
for he maye not enter vpon the tenaunte
terme of lyfe and yf he ought to abyde tyll
ter the death of the tenaunt for terme of lyf
than happely he myght come to late for pa
nenture the villayn wyll graunt or alyen
another in the life of the tenaunt for terme
lyfe. In the ſame maner it is where a vill
purchaſeth the auowſon of a churche full of
incombent that the lorde of the villayn m
come to the ſayde churche and clayme the
nowſon. And by this clayme the aduow
is in hym, for yf he abyde tyll after the dea
of the incombent and than preſent his cla
to the ſayd churche. Then in the meane ty
the villayn myght alyen the aduowſon.
ſo put out the Lorde from hys preſentac

¶ Alſo there is a villayn regardaunt an
villayn in groſſe. Villayne regardaunt is
if a man be ſeiſed of a manour to which a
layn is regardant and he that is ſeaſed of
ſayd manour or they whoſe eſtate he hath
the ſame manour haue been ſeaſed of the
villayn and of hys aunceſters as villayns
gardant to the manour fro tyme out of mi
And villayn in groſſe is where a man is ſeiſ
of a manour to the whiche a villayne is
gardaunt and he graunteth theſame villa
by his dede vnto another than he is villain
groſſe and not regardaunt.

¶ Alſo yf a manne and his aunceſter
whi

whole heyre he is hath been ſeaſed of a vyl-
eyne and of hys aunceſters as vyllayne
a groſſe tyme out of mynde ſuche bene vyl-
eynes in groſſe. And note well that of ſuche
thynges whiche may not be graunted nor a-
lened without dede or fynde a manne that
ll haue ſuch thynges by preſcripcio may not
therwyſe preſcrybe but in hym and hys aun-
eſters whoſe heyre he is and not by theſe
oordes in hym and in thoſe whoſe eſtate he
ath for that that he may not haue their eſtate
without dede or wryting the which behoueth
o be ſhewed to the coure yf he wyl haue any
auauntage of this and becauſe ỹ the graunt
nd the alyenacion of a villain lieth not with
ut dede or other wryting. A manne may not
preſcrybe in a villayn in groſſe without ſhew-
ng of wryting but in hymſelfe that claimeth
he vyllayn and in his aunceſters whoſe heir
e is. But of thoſe thynges whiche bee regar-
aunt or appendaunt to a manour or to other
andes or tenementes, a man maye preſcrybe
hat he and they whoſe eſtate he hath wer ſea
ed of the manour or of ſuch landes or tene-
entes as regardeuntes or appendauntes to
he manour or to ſuche landes & tenementes
c. from tyme out of mynde, and the cauſe is
or this that ſuche a manour landes and tene-
uentes may paſſe by alyenacio without dede.
And it is to witte that nothyng is named
egardaunt to a manour but a vyllayne. But
llayne other thynges as aduowſons and

commune

commune of pasture. &c. be named appendāce to the manour or to other landes and tenementes.

Also yf a man in court of recorde knowledge hymself to be villayn that neuer was villayne before, suche one is villayne grosse.

Also a manne that is villayne is called villayne, and a woman that is villayne is called nyefe, as a manne that is outlawed is called an outlawe, and a woman that is outlawed is called a wayue.

Also yf a villaine take a free woman to wyfe, the yssue betwene them shalbe villayne. But yf a nyefe take a freman to husband, the yssue shalbe free. And that is contrary to the lawe ciuyle, for there he sayth that partus sequitur ventrem.

Also no bastarde may be villayne, but yf that he wyl knowledge hymself to be a villayne in court of recorde, for he is in the lawe Quasi nullius filius as the sonne of no man for that he maye be inherit out to no man.

Also euerye villayne is able and free sue all maner of accions agaynst euery parsone except agaynst hys Lord to whom he is villayne, and yet in certayne thynges he may haue agaynst hys Lorde an accion of appeale for the death of hys father or of his other ancesters whose heyre he is. Also a nyefe which is rauished by her lorde may haue appelle of rape agaynst hym.

Also

Also yf a villayne bee made executour
to another, and the lorde of the villayn was
indetted to the testatour in a certayne summe
of money, which is not payd, in this case the
villayne as executour to the testatour shall
haue an accion of dette agaynst hys lorde be-
cause he shall not recouer the Det to his pro-
per vse, but to the vse of the testatour.

Also the Lorde may not take out of the
possession of suche a villayne that is execu-
tour of the deades goodes, and yf he doe the
villayne as executour shall haue an accion of
trespas agaynst his lorde for the same goodes
so taken and recouer damages to the vse of the
testatour. But in all these cases it behoueth
the lord which is defendant in such accions to
make protestacion that the plaintyf is his vil-
layne or els the villayn shall be fraunchysed
though the matter be founde for the Lord a-
gaynst the villayne as it is layde.

Also yf a villayne sue an accion of tres-
pas or other accion agaynst hys Lorde in one
shyre, and the Lorde sayeth that he shall
not bee aunswered for that he is villayne
regardaunte to hys manoure, in an other
shyre, and the playntyf sayth that he is frank
and of free estate and no villayne, thys shall
be tryed in the Shyre where the playntyfe
hath conceyued hys accyon, and not in the
shyre where the manoure is and this is in
lawe of libertie as it is adiudged. M. 40. E. 3.

And

And for this cause was made a statute in
ix. yere of Rychard the seconde, the tenu
which ensueth in suche forme.

¶ Also for that wher many bylaynes
tyses as well of great lordes as of other
spirituall or temporall flee and goe into c
and places fraunchysed as the citie of L
and other lyke places, and sayne dyuers
agaynst theyr lordes because they wold
themselfe to be enfraunchysed, it is accord
assented that the lordes nor none other
forbarred of theyr bylaynes because of
aunswer in the lawe. By force of which
tute of any bylayne will sue any maner
tion to his owne ble in any syze where
harde to trye, &c. agaynst his lorde, hys
may chose to plede that the plaintif is h
layne and to plede another matter in ba
of they be at issue and the issue bee found
the lord, than the bilayn is bilayn as he
before by force of the same statute. But
issue be founde for the bylayn than is th
layn frank and free for that the lorde tok
for his plee that the bilayn was his bi
but toke it by prote station.

¶ Also the Lorde maye not mayme
bylayn for if he mayme his villain he
that he endued at the kynges suite. I
he bee of that attaynt he shall for that
grieuous fyne and raunsome to the king
it semeth that the villain shal not haue b

lawe any appele of mayme agaynſt his lord, for in appeale of mayme a man ſhall not recouer but hys damages. And if the vyllayn in that caſe recouer damages agaynſt hys lord, and hath therof execucion the lord may take that that the vyllayn hath in execucion from the vyllayne, and ſo the recouerye ſtandeth dopde.

¶ Alſo if the vyllayn be demandant in an accion royall or playntife in accion perſonel agaynſt hys lord if the lord will pleade in dyſabilite of hys perſon, he may not make plain defence, but he ſhal defend but the wrong and the force and demaund iudgement if he ſhall be aunſwered and ſhew hys matter by and by how he is vyllayn and demaunde iudgement if he ſhalbe aunſwerde.

¶ Alſo. vi. maner of menne there be agaynſt whom if they ſue accions &c. iudgement may be aſked if they ſhall bee aunſwered. One is where the vyllayn ſueth an accion &c. agaynſt hys lord as in caſe aforeſayde. The ſeconde is where a manne outlawed vpon an accion of dette or treſpas or vpon any other accpon or indytement, the tenant or the defendant may ſhew all the matter of the record and the outlary and demaund iudgement if he ſhalbe aunſwered becauſe that he is out of the lawe to ſue any accion during the time that he is outlawed. The thyrde is where an alene doone out of the alegeaunce of our ſoverayn lord the kyng, if ſuch alyene ſue anye accion royall or

parſonal, the tenant or defendant may ſay that he was borne out of the kinges allegeance & aſke iudgement if he ſhal be aunſwered. The fourth is, where a man by iudgement geue gaynſt hym vpon a writte of premunire facia &c. is oute of the kynges protection if he ſu any accio & the tenaunt or defendant ſhew the record agaynſt hym he may aſke iugement if he ſhalbe aũſwered for the la & the kinges writtes been the thynges by which a man protect & holpen and ſo durynge the tyme th a man in ſuch caſe is out of the kynges prote tion, he is out of helpe & proteet by the ky ges lawe or by the kynges writ.

¶ The fyfth is where a manne is entred re profeſſed into religion, if ſuch a parſon ſue a accion the tenant or defendant may ſhew th ſuch one is entred into religiõ in ſuch a pla into the order of ſaynt Bennet, and is there monke profeſſed or in the order of freres m nours or preachers and is there a frere pr feſſed, & ſo of other orders of religion &c. & a iudgement if he ſhalbe aunſwered, and t cauſe is for thys that when a man entreth to religiõ & is profeſſed he is dead in the la And hys ſonne or next colyn incõtinent th inherite him as wel as though he wer de in dede, & when he entreth into religion, h may make hys teſtamẽt & hys executours a they may haue an accion of dette due to hy before hys entre into religion or any other tion that executours may haue if he wer de

in dede. And if he make none executours whā he entreth into religiō, than the ordinary may commyt the adminystracion of hys goodes to other as if he wer dead in dede. The syxth is where a man is accursed by the law of holy church, & he sueth an accion royal or parsonal, the tenant or defēdant may plede that he that sueth hys accuser, & of thys it behoueth hym to shew the bysshops letters vnder hys seale, witnessyng the accursyng & alle iudgement if he shalbe aunswered &c. but in thys cale if the demaūdant or pleyntif cannot denye it, ȳ writ shal not abate, but the iudgement shalbe that the tenant or defendāt shal go quite withoute daye for thys, that whan the demaundant or playntif hath purchased hys letters of absolucion and shewed them to the courte, he maye haue a resommons or a reattachemente vpon hys originall after hys nature of hys wrytte &c. But in the other cales the wrpt shal abate. et cetera. If the matter shewed maye not bee gaynsayd.

¶ Also if a vilain be made a seculer prest, yet hys lord may cease hi as hys vilain & cease his goodes &c. But it semeth ȳ if the villain ēre into religiō & is pfelled &c. that the lorde may not take hun nor seise hi for ȳ he is ded in the law. And no more thā if a free mā may take a wife to hys wife ȳ lord may not take ne seise ȳ wyfe of the husband. But hys remedy is to haue an accion agaynste the housebande, for yat he tooke hys niefe to wyfe without his

And so may the lorde haue an accion agayn
the souerayn of the house that taketh and a
mitteth hys villain to be professed in thes
house without lycence and will of hys lor
&c. and shal recouer hys damages to the va
of the villayn, for he that is professed mon
&c. shalbe a monke, and as a monke shalbe t
ken for terme of hys lyfe naturall, except
be derayned by the lawe of holy church, e
is holden by hys religion to kepe his clois
and if the lord may take hym out of his ho
than he should not liue as a dead person
after hys religion which shoulde be in co
nent &c. For if there be wardeyn in chiual
of body and of land of a child within age,
the child whan he cometh to the age of
peres, entre into religion and is professed,
wardeyn hath none other remedye as to
warde of the body, but a writte of rauysh
of warde agaynst the souerayne of the ho
And if any beyng of full age that is colyn
heyre vnto the childe entre into the land
warden hath no remedy as to the ward of
lande, because that the entre of the heyr
the child is lawfull in such case.

¶ Also in many dyuers cases the lord m
make manumyssion and infraunchisyng to
villayn. Manumission is properly whan
lord maketh hys dede to hys villayn to en
chise hym by thys word Manumittere, w
is as muche to say, as extra manum. Et ex
potestatem alterius ponere, as to put hym
of

of the handes and the power of another. And for thys that by such a dede the villain is put out of the hand & power of hys lord, it is called manumission. And so euerye maner of enfraunchesing made to a villayn, may be sayde a manumission. Also if the lorde make to hys villayn an obligacyon of a certayn summe of money or graunt vnto hym by hys dede or annuitie, or let hym by hys dede, landes or tenementes for terme of yeres, the villayn is enfraunchised. Also if the lord make a feoffement to hys villayn of anye landes or tenementes by dede or without dede in fee symple, or fee taple, or for terme of yeres, and delivereth vnto hym the seysyn, thys is an infraunchisynge, but if the lorde make to hym a lease of landes or tenementes, to hold at the will of the lord by dede or without dede thys is no enfraunchisyng, for that he hath no maner of certayn nor suertie of hys estate, but ỹ the lord may put hym out when he will. Also if a lord sue agaynst hys villayn, a Præcipe quod reddat, if he recouer or by nonsuite after appearance, thys is a manumyssion, for this that he may lawfully enter into the land without such suite. In the same maner it is if he sue agaynst hys villayn an accion of Dette, or of accompte, or of couenaunt, or of trespas, or of the other, thys is an enfraunchisyng. &c. for thys that he may enprison hys villayn, & take his goodes without such suite. But if the lord take hys villayn by appele of felonye, thys is

none enfraunchilyng to the villayn though
matter of the apele is found agaynſt the lo
becauſe that the lord may not haue the villa
hanged without ſuch ſuite. But if the villa
wer not endyted of the ſame felony before th
appele ſued agaynſt hym & is acquyted of th
felony, ſo that he recouer damages againſt th
lord for the falſe appele. And in thys caſe th
villayn is enfranchiſed becauſe of the iudge
ment of damage that was geuen to hym a
gaynſt hys lord. And more caſes and matter
there be by ꝙ which a villayn may be enfra
chiſed agaynſt hys lord. Sed de illis quere. A
ſo yf a lord of a manour wyll preſcrybe th
yt hath been accuſtomed within hys manou
tyme out of mynd that euery tenãt within th
ſame manour that marieth hys daughter to
ny mã without lycẽce of the lord of ꝙ manou
ſhal make fyne to the lord for the tyme beyn
thys preſcryppcion is voyde, for none ought
make ſuch fynes but onely villaynes for ev
ry free man may frely mary hys daughter
whõ it pleaſeth hym & hys daughter. And be
cauſe that thys preſcripcion is agaynſt reaſ
ſuch preſcryppcion is voyd. But in the thyr
Kent of landes holde in Gauellynd where
the cuſtome and tyme of mynde the chyldr
males ought euenly to enherite thys cuſto
is alowable, for thys that it is with ſome
ſon becauſe that euery ſõne is as great a g
tleman as the elder ſonne, & becauſe of th
more great honour & valure ſhall growe th
if

if he hadde nothyng by hys auncestres where paraduenture he myght not so growe. &c.

¶ Also where by custome called borough Engliph in some borough the yonger sone shal inherite al the tenementes &c. Thys custome also standeth with reaſō because that the pōger sonne if he lacke father & mother because of hys young age may leaste of all hys brethern helpe hymself &c. But if a man wil prescribe that if any catel wer vpon the demesnes of hys manour there doyng damage, that ỹ lord of the manour for the time beyng hath vied hī to dystrayn them & the distresse to retayn tyll fyne wer made to hym for the damages at his will, thys prescripcion is voyd, because it is agaynst reaſō that if wrong be done to a mā, that he therof shoulde be hys owne iudge for by such way if he had damages but to the value of an half penye he myght assesse and haue therof an hundred pound which should be agaynst all reason, and so suche prescrypcion or any other prescripcion vied if it be agaynst al reaſō this ought not nor wil not be alowed be fore iudges. Quia malus vsus abolendus est.

¶ Rentes. Cap. 12.

Three maner of Rentes there be, that is to saye, Rent seruyce, Rent charge, and Rent seche. Rent seruice is where a manne holdeth hys land of hys lord by fealte & certayn rent & by other seruice and certayn rent.

¶ Or by homage fealte and certayne Rent.

And if rent seruice at any day that it ought to be payd, be behynd, the lord maye dystrayn for that of common ryght. And if a man now will geue landes or tenementes to another in the tayle, yeldyng to hym certayn rent bypere be of common ryght may distrayn for the rent behynd, though that such gyft was made without a dede because that such rent is rent seruice, but in such case where a man vpon such a gyft or lease will receiue to hym rent seruice It behoueth that the reuercion of the landes and tenemētes be in the donour or in the lessour, for if a man will make a feoffment in fee, or will geue landes in the tayle, the remaynder ouer in fee simple without a dede reseruyng to hym certayn rent, suche reuercion is voyd because ỹ no reuercion is in the donour and such a tenaunt holdeth hys land immediatly of the lord of whom hys donour helde. And thys is by force of the estatute of westm 3 Cap. 1. Quia emptores terrarum For before the same estatute if one had a feoffment in fee simple by dede or without dede, yeldyng to hym & to hys heyres certayne rent, thys was rent seruice, and for thys he myght dystrayn of common ryght. And if he made no reuercion of any rent nor of any seruice, yet the feoffee hold of the feoffour by suche seruices as the feoffour held euer of his lord next aboue. But if a man by dede indented at a day, make such a gyft in the tayle, the remaynder ouer in fee &c. or feoffment in fee, and by the same inden-

ture

ure reſerueth to hym and to hys heyres a cer
ayn rent, and that if the rent be behynd that
t ſhalbe leful to hym and to hys heyres to dy=
ſtrayn &c. ſuch rent is rēt charge, becauſe ſuch
andes and tenementes be charged of ſuch di
ſtres by force of the wrytyng only and not of
cōmon ryght. And if ſuch a man in ſuch a dede
ndented, reſerue to hym and to hys heyres
ertayn rent without any ſuch clauſe ſette or
ut in the dede that he may diſtrayne &c. that
uch rent is rent ſeche, becauſe that he cannot
yſtrayn to haue the rent if it be denyed by ꝯ
ame dyſtres, & if he was neuer ſeyſed in thys
ale of the rent he is without remedy as ſhal=
e ſayd hereafter. Alſo if a man ſeiſed of cer=
ayn lande graunte by hys dede Poll, or by
nd̄ture a yerely rent iſſuyng out of the ſame
and to another in fee ſymple or in fee tayle,
n for terme of life &c. with clauſe of dyſtreſſe,
c. then that is rent charge, and if it be with=
out clauſe of diſtreſſe, then it is rent ſeche, and
ote well that rent ſeche Idem eſt quod red=
itus ſiccus, and for that, that no dyſtreſſe is
ncident to it. Alſo if a man grant by his dede
o another and the rent is behynd, the grante
ay chooſe if he will ſue a wrytte of annuite
r̄ agaynſt the grauntour or dyſtrayn for the
nt behynd and the dyſtreſſe to withold tyll
e be of that payde. But he may not dooe and
ue both together, for if he take a wrytte of
nuite than the lord is diſcharged. And if he
ue not a wrytte of ānuite but dyſtrain for the
arrera=

arerages & the tenant sueth a replegiare &
the graunte auowethe the takyng of the dy
tresse in the land &c. in court of record than
the land charged, and the parson of the grau
tour discharged of an accion of annuite.

¶ Also if a man will that another shall ha
rent charge yssuing oute of the landes but
will not that hys parson shalbe charged i
maner by a writte of annuite, than he ma
haue such a clause in the end of his dede. P
uiso semper q̄ presens scriptum nec aliq
in eo specificatū non aliqualiter se extēdat
onerandum personam meam per breue de
nuali redditu. Sed tantummodo ad onora
terram & tenementa p̄dicta de annuali red
predicto. And than is the land charged &
parson of the grauntour discharged.

¶ Also yf a man make such a dede in such
ner that yf A. of B. be not verely payd at
feast of Chrystmas for terme of hys lyfe o
shyllynges of lawful money, that than it
be lefull to the sayd A. of B. to distrayne
in the manour of F. &c. thys is a good Re
charge, because that the manour is charg
the rent by way of dystresse. And yet the p
hymselfe that made such a dede is discharge
thys case of an accō of annuite because t
he graunted not by hys dede anye annuite
the sayd A. of B. but graunted onely that
may dystrayn for hys annuite.

¶ Also yf a man haue a rent charge to h
and to hys heyres yssuyng out of certayn la

the purchace any parcell of the land to hym and to hys heyres, all the rentes is extincte and adnulled because the rent charge may not in such maner bee appoyrcyoned, but yf a man that hath rent serupce purchase parcell of the lande whereof the rent is thys shall not extincte all. but for the poyrcyon for the rent service in such case may be appoyrcyoned and shal be appoyrcyoned after the value of the lande, but yf a tenaunt holde hys lande by serupce to yelde to hys lorde yereiye at suche a feast, an hoyse or an hauke, or suche thyng semblable. yf in suche case the Lorde purchase parcell of the lande, the seruice is gone, because that suche serupce may not be seuered nor appoyrcioned, but yf a manne holde hys land of another by homage fealte and escuage, and by certayn rent yf the lorde purchase parcell of the land & cetera. In that the rent shalbe appoyrcyoned as is aforesaid, but yet in this case the homage an fealtee abideth whole to the lord, for the lord shall haue the homage & fealte of hys tenant for the remenant of landes & tenementes holden of hym as he had before. &, for thys that suche seruices be no auncient serupces and maye not be appoyrcyoned. But the escuage may and shalbe appoyrcyoned after the quantitie and rate of the land.

Also yf a man haue a rent charge, and hys father purchaseth parcell of the tenementes charged in fee and dyeth, & that parcell discendeth to hys sone that hath the rēt charge now thys

thys rent charge shalbe appoyncioned after th
value of the land, as is aforesayd of rent se
uice because that such a poyncyon of the lan
purchased by the father, commeth not to th
sonne by hys own dede, but by dyscente a
course of the lawe.

¶ Also yf there be lord and tenaunt, and th
tenaunt holdeth of hys lord by fealte and ce
tayn rent, and the lord graunteth the rent
hys dede to another &c. reseruyng to hym th
fealte and the tenant attorneth to the gra
of the rent, now such rent is rent secke to
graunte for thys that the tenementes be
holden of that graunte of the rent, but be
den of the lorde that receyueth to hym h
tee. And in the same maner it is, where a
holdeth hys land by homage fealte, & cer
rent, if the lord grant the rent, sauyng to
the homage such rent after such graunt is
secke but where landes or tenementes be
holden by homage fealte, and certayn ren
the lord will graunt the homage of hys la
by hys dede to another sauyng to hym th
menant of the seruices and the tenant att
neth to hym after the fourme of the gra
now in thys case the tenant holdeth his l
of the graunt, and the lord that graunteth
homage shall not haue but the rent as re
secke, and shall neuer dystrayn for the rent
thys that neyther homage, nor fealtie, nor
cuage may be sayd seck, for he ỹ hath or ou
to haue of hys tenaunt homage, or fealte a

escuag

elcuage may of common ryght dyſtrayn for it if it be behynd. for homage fealte and elcuage been, ſeruices by which landes and tenemtes be holden and been ſuch that in manet maye be taken but as ſeruices. But otherwyſe is of rent that was once rēt ſeruice for thys that whan it is ſeuered &c. bythe graunte of the lord fro the other ſeruices, it may not be ſayd rent ſeruice for thys that hath not to it fealte which is incident to euery maner of rent ſeruice, and for thys it is ſayd rent ſeche.

¶ Alſo if a man let land to another for terme of lyfe reſeruyng to hym certayne rent, if he graunt the rent to another ſauyng to hym the reuercion of the land ſo letten by his dede. &c. ſuche rent is but rent ſeche, for thys that the graunte hath nothyng in the reuercion of the land. But if he graunt the reuercion of ꝯ land to another for terme of lyfe and the tenant attourneth &c. then hath the grauntee the rent as rent ſeruice becauſe he hath the reuercion for terme of lyfe. And ſo it is to be vnderſtād that if a manne geue landes or tenementes in the tayle reſeruing to hym and to hys heyres certayn rent or let land for terme of lyfe reſeruing certayn rent if he graunt the reuercion to another, and the tenaunt attorneth all the rent and ſeruice paſſeth by the woorde of the graunt of reuercion for thys that all the rent and ſeruice in ſuch caſe be incidentes to the reuercion and paſſe by the graunt of reuercion. But though he graunt the rent to another

the

the reuerchon palleth not by ſuche :graun
et cetera. And ſo note well the diuerſitie. A
it is holde, Paſche duodecimo E. quarti. B
it is adiudged. Anno. xxvi. libro Aſſyſaru
where as the ſeruices of the tenaunt in tap
wer graunted that that was a good grau
yet notwithſtanding the reuercion remain

¶ Alſo yf there be Lorde meſne and t
naunte, and the tenaunt holdeth of the m
by the rent of. v. ſhillynges, and the meine h
deth ouer by twelue pence, yf the lord ab
purchaſe the tenaunce in fee, then the ſer
of the menalte is extynct for thys that
the lord aboue hath the tenaunce, he holde
of the lorde next aboue hym. And if he ou
to holde it of hym that was meſne, than
ſhoulde holde one ſelfe tenauncie immed
lye of dyuers Lordes whiche ſhoulde be
conuenyent, and the lawe will ſooner ſuffe
myſchiefe for that, than an inconuenyen
and for thys the ſeygniorye of the menal
is extyncte. But in ſo muche that the tena
held of the meine by v. s. & the meſne held
by. xii. d. ſo that he had more auantage by.
than he payd to hys lord, he ſhal haue the
fowre ſhyllynges as a rent ſeche perely of
lord that purchaſed the tenauncy.

¶ Alſo yf a manne that hath rent ſeche
ones ſeiſed of any parcell of the rene, and
ter yf the tenaunt will not pay the rent th
is behynde, thys is hys remedye. It be
ueth hym to goe by hymſelfe, or by anothe

to t

o the landes and tenementes where of the
ente is ysſuynge. and there to demaunde the
rrerages of the Rente. And yf the tenaunt
enye to paye it, thys denynge is a dysſeiſyn
f the rent. Alſo yf the tenaunt at the tyme
e not ready to paye it, thys is a denying and
dyſſeiſyn. Alſo yf the tenaunte, noꝛ none
ther be diſſeiſynge vpon the landes oꝛ tene-
nentes whan he aſketh the arrerages et ce-
tera. thys is a denying in lawe, and a dyſſey-
yn in dede, and of ſuche diſſeiſyns he maye
aue an aſſyſe of nouel dyſſeiſyn agaynſt the
enaunt, and recouer the ſeyſyn of the Rent,
nd the arrerages and hys damages and co-
es of hys wꝛitte & of hys ple. &c. And if after
uch recouere the rent be another time deny-
d him, thã he ſhal haue a reditſeiſin & recouer
ouble damages. And it is to be had in mind,
hat thys name aſſyſe is Equiuocũ. Foꝛ ſome
yme it is take n foꝛ a iure, foꝛ in the begyn-
ing of the recoꝛd of aſſyſe of nouel diſſeiſin,
he recoꝛd ſhal begin thus (Aſſiſa ven̄ recogn̄)
hich is to ſaye ꝑ iuratoꝛes ven̄ recogn̄, and
e cauſe is foꝛ thys that by the wꝛytte of aſ-
yſe is commaunded to the ſhyꝛif q̄ faciat. xii.
beros & legales homines de vicineto &c. di-
ere tenementum illud & nomina eoꝛũ inbꝛe-
iari. & q̄ ſom̄ eos ꝑ bonos ſum̄ q̄ ſint coꝛam
ſticiariis et ceteꝛa. parati inde facere recog-
itionẽ &c. And foꝛ thys that by foꝛce of ſuche
oꝛiginall wꝛitte a panell by foꝛce of the-
ame wꝛytte, oughte to bee retourned &c. it is

ſayd

layd in the begynnyng of the record in assyse
Assisa den recogñ &c. Also in a wrytte of rig
it is commonly layd that the tenant may put
hym in good and in the greate assyse &c. Al
there is a wrytte in the Registre called D
magna assysa eligenda, so is thys a good pr
that thys name assyse sometime is put for t
Jewry, and sometyme it is taken for all t
wrytte of assyse, & after that entent it is m
properly and most commonly taken as ass
of nouel disseisin. is taken for al the wrytte
assyse of nouel dysseisin. In thesame manera
syse of cõmon pasture, is taken for al the m
of assyse of cõmonpasture and assyse of m
dauncestre and assyse of darrayn presentm
&c. But it semeth that the cause is why suc
writtes at the begynnyng were called a
ses, for thys that by euery suche wryt it is
maunded to the chyfe that he sommon. tw
which is as much to say that he ought to
mon a iewry &c. and sometyme assyse is ta
for an ordinaunce for to set certayn thyng
in a certayn rule and dyspolicion, as an or
naunce that is entred in the auncient est
tutes is called Assysa panis & seruicie. Al
there be lord and tenaunt, and the lordg
teth the rent of hys tenaunt by dede to an
ther sayyng to hym the other seruice, and t
tenaunt attourneth, thys is a rent seche a
is afore sayd But if the rent be denyed hym
the next day of payment, he hath no remed
for this that he had not therof any posses

But yf the tenaunt whan he attorneth to the graunt or after wyll geue a peny or an halfe peny to the graunt in the name of seisin of rēt than it after at the next day of payment the rent be denyed hym he shall haue assyse of nouel disseisin and so it is yf a man grant by his dede a yerely rent issuyng out of hys lande to another. &c. If the graunt out than after paye to the graunte. i. d. or an half peny in the name of seysyn of the rent than after the fyrst daye of payment the rent be denyed, the grant may haue assyse or els not. Also of rent Secke a mā may haue assyse of mortdaunceſter or a wryt of ayle or cosynage and all other maner of actions reals the cause tyeth as he may haue of any other rent.

¶ Also there be two causes of disseisin of rēt seruyce that is to say rescous repleuyn and ēclosure rescous is whan the lord dystrayneth in the land holden of hym for his rent behind yf the dystresse be reserued fro hym or the lord come vpon the lande and wolde dystrayne & the tenaunt or another manne wyll not suffer hym. &c. Repleuyn is whan the lorde hath distrayned, and repleuyn is made of the distres by wryt or by playnt. &c. Enclosure is yf the landes and tenementes bee so enclosed that the lorde may not come within the lande and tenementes for to dystrayn and the cause why suche thynges so done be disseisins made to the lorde is for this by suche thynges the lord is disturbed of the meane by which he ought to

haue come to his rent. And foure causes be of
disseisin of rent charge that is to saye rescous
replevin enclosure and denyer for denying is
a disseisin of rent charge as it is aforesayde of
rent secke & two causes be of disseysin of rent
secke that is to say enclosure and denyer and
yet it semeth that ther is another cause of dis-
seisin of al the thre rentes aforesayde that is
whan the lord is goyng to the land holden of
hym for to dystrayne for the rent being behin
and the tenant hearyng this encountreth hym
and forstalleth hym the way with force, and
armes and manaseth hym in suche forme that
he dare not come to the land for to dystrayne
for his rent behynde. &c. for doute of death o
bodily hurt this is a disseisyn for this that the
lord is disturbed of the mean wherby he ought
to come to his rent and so it is yf by such for-
stalling and manalling he that hath rēt charge
or rent seeke is forstalled or dare not come to
the land to aske the rent behynde.

The thyrd Booke.

Parceners. Cap. i.

Parceners bee in two maners that is to
say parceners after the course of the cō-
mon law & parceners after the custome
parceners after the course of the cōmō
law be wher a man or a woman be seased of
certayn landes or tenementes in fe simple or
fe taile & hath none issue but doughters & dieth
and

and the tenemẽtz discende to the doughters & the doughters enter into the lãdes & tenemẽtz so to thẽ discended than they be called parceners & be but one heyre to theyr ancester and they be called pceners for this ỹ by the writ that is called Breue de participatione faciẽda the law wyl constrain thẽ that participaciõ shalbe made among thẽ & yf ther be .ii. doughters to whom the land discendeth then they be called two parceners & if thei be .iii. doughters they be called thre parceners, and foure doughters foure parceners and so forth and yf a man seased of landes in fe symple or in fe tayl and dye without issue of his body, and the tenementes discende to his systers they be parceners as is aforesayde. In thesame maner it is wher he hath no sisters but the land discendeth to his auntes they be parceners, but yf a manne haue but one doughter she may not be sayde parcener but doughter and heyre. And itis to wete that partiticion betwene pceners maye be made in dyuers maners, one is whã they agree to make partition and make partition of the tenementes as yf there be two parceners to deuide betwen them the tenemẽtz in two partes euery part by hymself in seuerallie of euen value and if there be thre parceners to deuide the tenementes in thre partes in seueralte. Anothet ptition there is to chose by agrement betwene thẽ & certayne of theyr frẽdes to make the ptition betwene thẽ of the landes & tenementes in the forme aforesayd.

And in ſuche caſes after ſuche particion the el
der doughter ſhall choſe fyrſt one of the pte
ſo denyded which ſhe wyll haue for her part.
And than the ſeconde doughter after her an
ther part.&c.yf it ſo be that there be many ſy
ſters.&c. If it be not ỹ they ne be otherwyſe
agreed betwene them for it may be agreed be
twene them that one of them ſhall haue ſuche
tenementes and another ſuch tenementes.&
without any ſuche fyrſt election and the pa
that the elder ſyſter hath is called in latin E
nitia pars, but yf the parceners agre that th
elder ſyſter ſhall make particion of the tene
mentes in the fourme aforeſayd, and yf ſhe de
than it is ſayde that the elder ſyſter ſhal cho
the laſt part after eche of her other ſyſters
nother particion and a lottyng there is.as
there be fowre parceners and after ſuch pa
ticion made of the landes euery parte of th
lande is by it ſelfe wrytten in a little ſcrow
and it is couered all in were in a maner a
lyttle ball ſo that no man may ſee the ſcrow
than is the foure balles of were put in a Bo
net to kepe in the handes of an indyfferẽt m
ẽ than the elder doughter fyrſte ſhall put h
hand in the Bonet which ſhall take a balle
were and the ſcrow within the ſame ball
her purpartie, and than the ſeconde ſyſter ſh
put her hande in the Bonet and ſhall take
nother, and ſo then the thyrd ſyſter the thyr
ball.&c.ẽ in thys caſe it behoueth eche of th
ſo holde them to theyr chaunce and alotmen

¶ Also another partition ther is as if ther be fowre parceners and they wyll not agree that partition shalbe made betwene thē, than one of them may haue a writ de participione facienda agaynst the other thre systers, or two may haue a writ of participatione facienda, agaynst the other or the thre against the foure at the election and whan iudgement shall bee geuen vpon suche a writte, the iudgement shal be such the partition shalbe made betwene the partyes of the cherife in his proper parson go to the landes and tenementes. &c. and that he by the othe of. xii true mē of hys bayly wyke. &c. shall make partition betwene the partyes the one partye of the same landes shal be assygned to the playntyf or to one of the playntyfes, & another parte to an another. &c. not makig mēcion in the iudgement of the eldest sister more than of the yongest, and of the partition that he hath, thys done he shall make notyce to the Justyces. &c. vnder his seale and the seales of the xii &c. and so in this case may yon see that the elder sister shall not haue the fyrst election. &c. but the cherife shal assygne the part that he shall haue. &c. and it may be that the cheryfe wyll assygne fyrst a part to the yonger syster, and the last part to the elder. And note well that partition by agrement betwene parceners maye by the lawe bee made amonge them as well by woorde without deade as by dede.

¶ Also if two meses dyscende to two par-

ceners and the one mese is worth by yere .xx.
s. and that other but .x. s. by yere, in thys case
partition may be made betwene them in such
forme that the one parcener shal haue the one
mese and the other parcener shall haue the o-
ther mese, and he that shall haue the mese of
xx. s. and hys heyres shall paye a yerely rent,
of .v. s. yssuing out of the same mese to another
parcener and to his heyre for euer, because
euery of them shall haue euen in value, & such
partition made is good ynough, and the same
parcener that shall haue the rent of .v. s. & hys
heyres may dystrayne for the rent of comm
ryght in the same mese of the value of .xx. s.
the rent of .v. s. bee behynde at any tyme
whose handes so euer the same mese com
though there was neuer wrytyng made o
betwene them, in the same maner it is of pa
tition of all maner of landes and tenement
&c. where such rent is reserued to one o
dyuers parceners vpon such partition &c. bu
such rent is not rent seruyce, but ter charg
of common ryght had and reserued for egal
of the partition. And note well that none
called parceners by the common la we bu
women or the heyres of women, and whi
come by landes and tenementes by dyscent,
for yf syster's purchase landes or tenement
of thys they been called Joynt tenaunts
and not parceners. Also yf two par-
ceners of lande in fee symple make partitio
betwene them &c. and in the part of that one

valueth

valueth muche more than the parte of the other, yf they were at the tyme of partition of full age, that is to save of xxi. yeare, than they alwaye shall abyde and neuer be defeted, but yf tenementes whereof bee made partycyons bee to them in fee tayle, and the parte that one hath is muche better in yerely value than the part of the other. Howbeit that they bee excluded durynge theyr lyues to defete the partition yet yf the parcener ỹ hath the lesse part in value hath yssue and dyeth, the yssue maye dysagree to the partition and enter and occupy in comon that other part that is alotted to her aunt and so the aunt may enter and occupy in common the other part alotted to her sister as no partition therof had be made. &c.

¶ Also yf two parceners of tenementes in fee take husbandes and they and theyr housebandes make partition betwene them yf the part of the one be lesse in yerely value thē the part of that other during the lyues of the husbandes the partition shalbe in his force and strength yet after the death of the husbande the wyfe ỹ hath the lesse part. &c. the same wife or woman may enter in her sisters part as it is aforesaid and defete the partition, but if the partition so made betwene thē wer such that at time of totment wer egal of yerely value then it may not after be defeted in such cases.

¶ Also if ther be. ii. pceners and the yonger of them be within the age of. xxi. yere and partycyon is made betwene them, so that the

part that is allotted to the younger is lesse in
value then the part of that other. In this case
ye younger duryng the time of her nonage and
so whan she commeth to full age of .xxi. yeare
may enter in the porcion of her sister alotted,
&c. and defete the partition but suche a parce-
ner ought to take hede whan she commeth to
full age that she ne take to her owne use alle
profytes of that tenemētes to her alotted, for
that she agreeth to the petition of suche age,
in which case the partition shal stande and
byde in his force and strength &c. but paraun-
ture the profytes of the half she male take, le-
uyng the profytes of the other halfe to her sis-
ster. &c. yet it is to wytte that whan it is sayd
males and females be of full age, that shal be
vnderstanded of the age of .xx. yere for yf any
feoffement or graunt relese confyrmacion or
ligacion or any other wryting before any such
age be made by any of them. &c. or that any
in such age be bayly or receyuer with any
&c. all for nought and may be auoyded. Also
man before suche age shal not be swoyne in
iury nor no inquisicion. Also yf tenemētes be
geuen to a manne in the tayle which hath
muche lande in fee simple and hath issuet
doughters and dieth, and the doughters ma
partition betwene them, so that the landes
fee symple be alotted to the younger dough
ter in allowaunce of the tenementes tayle
alotted to the elder doughter, if after such p
tycion the younger doughter alyeneth the lan

in fee ſymple to another in fee, and hath yſſue, a ſonne or a doughter and dyeth the yſſue may enter in the tenementes tayled and them to holde in propartye with theyr Aunt, and thys is for two cauſes, one is for that, that the iſſue maye haue no remedye of the lande aiyened by hys mother for that the lande was to her in fee ſymple, and in ſo muche that he is of the heyres in the tayle, and hath nothyng recompenſed of that that to hym belongeth of the tenementes tailed, and namely whan ſuch partition maketh no diſcontinuaunce of the tayle as ſhall be ſayde hereafter in the chapiter of diſcontinuaunce. But the contrarye is holden. M.x.H.vi. that is to ſaye that they maye not enter vpon the parcener that hath hys lande tayled, but is ſet to hys formedon. Another cauſe is for that, that it ſhal bee areſoned the folye of the elder ſyſter, that ſhe wouldе agree to the partition where ſhe myght haue had halfe the land in fee ſymple and halfe of tenementes in the tayl for purpartie and ſo to be ſure without damage. &c. Alſo yf a manne ſeaſed in a plough lande by iuſte tayle and deceaſeth an infaunte wythin age of another ploughe lande and hath yſſue twoo doughters, and dyeth ſeaſed of bothe thoſe ploughe landes, the enfaunt than being with in age, and the doughters enter and make partition that the one ploughe lande, is lotted to the purparte of the one as parcaſe to the younger ſyſter in allowaunce of that o-

ther

ther ploughe lande that alotteth to the par-
parte of that other, so that after the infaunt
entreth in the plough lande of the which he
was dissesed vpon the possession of the par-
cener that hath thesame plough land, than th
same pcener may ēter into that other plough
land that the syster hath and holdeth in pa-
cenary with her, but yf the ponger syster alie
thelame plough lande to another in fee sym-
ple before the enter of the infaunt, and after
the chylde entreth vpon the possession of th
alyen then she maye not enter in the othe
plough land, for this that by her alienacion s
hath vterly dismissed her self to haue any p
of the tenementes as parcener, but yf the po
ger syster before the enter of the infaunt ma
therof a lease for terme of peres or for terme
syple or in fee taple saupng the reuercīō to
and after the chylde entreth, there paraduen
ture it is otherwyse, for this that she dismi
not her self of all that, that was in her, b
hath reserued to her the reuercion and the
symple. ꝛc.

¶ Also yf there be thre or foure parcene
that make partition betwene them, yf the pa
of the one parcener be defeted by such land
entre she may ēter and occupy thesame oth
landes of all the other parceners, and com
them to make newe partition of the oth
landes betwene them. ꝛc.

¶ Also yf there be two parceners, and t
one taketh an husbande, and the husbande a

the wyfe haue iſſue betwene them, and the wife dieth, & the husband holdeth hym in the halfas tenāt by the curteſy. In this caſe the p-cener that ſuruiueth & the tenant by the curteſy may wel make partition betwene them. &c. And yf the tenant by curteſy wyl not agree to make partition, than the parcener that ſuruiueth may haue a wryt de participatione facienda. &c. and compell hym to make partition. But yf the tenaunt by the curteſy wyll haue partitiō betwene them, and the parcener that ſuruiueth wyll not haue it then the tenaunt by the curteſy ſhal haue no remedy for to haue partition for he may not haue a wryt de participatione facienda, for this that he is not parcener, for ſuch a wryt lyeth for parceners all onely. And ſo may ye ſee that the wryt de participatione facienda lyeth agaynſt tenauntes by the curteſye, and yet hymſelf may not haue ſuch a wryt.

¶ Parceners by the cuſtome. Cap. ii.

PArceners by the cuſtome be where a manne ſeaſed in fee taple of landes or tenementes that be of the tenure called Gauelkynde with in the ſhyre of kent, & hath iſſues diuers ſōnes and dyeth, ſuche landes and tenementes ſhal deſcende to all the ſonnes by the cuſtome, and they euenlye ſhall inherite and make partyon betwene them by the cuſtome as females doe, and a wryt de participatione faciēdo lyeth in this caſe as betwene females, but

it

it behoueth in the declaracion to make mencion of the custome. Also suche custome is in other places in England and also such custome is in nozth wales.

¶ Also there is an other particion that is of another nature, and in another fozme than any of the particions afozesayde, as a mane sealed of certayn landes in fee symple hath fiue two doughters, and the elder is maryed, the father geueth parcell of the same lande to the husbande with his doughter in frank maryage, and dyeth sealed in the remenaunt the whiche remenaunt is of moze greater value by yere then be the landes geuen in frank maryage.

¶ In thys case the husbande and the wife shall haue nothyng foz theyz part of the same remenaunt, but yf they wyll put their lande geuē in franke mariage in hotchpot wyth the remenaunt of the lande with her sister, and yf they wyll not doe so, then the ponger syster may occupy the same remenaunt, and take of her the pzofytes onely, and it semeth that the wozde hotchpot is in Englyth a puddyng, and in such a puddyng is not commonly putte one onely thyng, but one thyng with another and foz this that it behoueth in suche case to put the landes geuen in frank maryage with the other landes in hotchpot yf the husbande and the wyfe wyll haue any thyng in the other remenāt. &c. This word hotchpot is but a lan of similitude, & is as much to say as to put the lande

landes geuen in frāk mariage & other lādes in fee symple. &c. together, & this is to such entēt to accompt the value of al the landes that is to say, of the landes geuen in franke maryage & the remenant that was not geuen and than partition shal be made in thys fourme that ensueth. As put case that a man sealed of. xxx. acres of lande in fee symple euery acre in value. xii. ō. by the yere which hath issue. ii. doughters and the one is couert baron, & the father geueth. x. acres of the xxx. acres to the husbād with his doughter in franke maryage & dyeth sealed of the remenaunt, then the other sister shall enter in the remenaunt, that is to saye in the. xx. acres and shall occupy it to her owne vse, except the husbande and the wyfe wyll put theyr. x. acres euen to thē in franke maryage wyth the other. xx. acres in hotchpot, that is to say together and than whan the value is knowen of euery acre. that is to saye, euery acre is verely worth. xii. ō. then the partycyon shalbe made in such forme, that is to say, that the husbande and the wyfe shall haue aboue the. x. acres geuen to them in franke maryage. x. acres in seueralte of the. xx. acres and that other syster shall haue the remenaunt, that is. x. acres of the. xx. acres for her part so that accomptyng the. x. acres that the husband and the wyfe had in franke mariage, and the other. x. acres of the. xx. acres, the husband & the wife haue as much in verely value as that other sister hath, & so al way vpon such ptici ō lādes geuen

geuen in frãk mariage abyde to the doners
to their heyres. &c. after the forme of the gift.
For if ꝑ other parcener should haue nothig
this ꝑ is geuẽ in frãk mariage, of this shou
folow an inconuenience & a thing agaynst re
son which the law will not suffer. &c. and th
cause why the landes geuen in frank mariag
shalbe put in hotchpot is this, that whẽ a m
geueth landes and tenementes in frank ma
age with his doughter or with his other
syn, it is to vnderstande by the law that s
gyft made by such woordes frank marpage
an auncyment of his doughter or of hys
syn, and namely whẽ the donour & his he
shall not haue any rent nor seruice of him
cept fealtie vnto the fourth degree be pas
&c. and for such cause the law is that the
haue nothing of the other landes and te
mentes discended to the other parceners
but if she wil put the tenementes geuẽ in fr
mariage in hotchpot as is aforesayd and if
wil not put the landes geuẽ in frank mari
in hotchpot, then she shal haue nothing in
remenant for this that it shalbe vnderstand
the law that she is sufficientely auaunced
which auauncement she agreeth and holde
her content, and thesame law is in this ma
ter betwene the dones in frank marpage a
the orher parceners as to put in hotchpot
the same law is betwene the heyres of t
donees in franke marpage and the parcene
&c. yt the donees in franke mariage die befo
the

theyr aunceſters or before ſuch partition.&c. as to put in hotchpot.&c. And note well that gyftes in franke mariage was the common lawe before the ſtatute of weſtmynſter the ſeconde, and alway after ſo hath bene vſed and continued.&c.

¶ Alſo ſuch putting in hotchpot.&c. is wher landes or tenementes that wer geuen in frāk mariage diſcende fro the donours in franke mariage all onely for yf the landes diſcende to the doughters by the father the donour, or by the mother the donour, or by the brother the donour or other anceſters & not by the donor &c. there it is otherwiſe, for in ſuch caſe the to whom ſuch gyft in frāk mariage is made ſhal haue her part as yf no ſuch gyft in frank mariage had bene made, for this that ſhe was not auaunced by hym.&c. but by another.

¶ Alſo yf a manne ſeaſed in.xxx. acres of lande euery acre of euen yerely value hauyng yſſue two doughters as it is afore ſayd, and dieth of this to the huſbande of the doughter.xb. acres in frank mariage, and dyeth ſeaſed in the other.xb. acres, in this caſe that other ſyſter ſhall haue the.xb acres ſo diſcended to her onely, and the huſbande & the wife ſhal not put in ſuche caſe the.xb. acres to hym geuen in frāk mariage in hotchpot.&c. for this that the tenementes geuen to hym in franke mariage be of as good yerely value as the other landes diſcended.&c.

¶ For

¶ For yf the landes geuen in frank mariage wer of as euen value as the remnaunt of more value, then in bayne and to none entre such e landes geuen in franke marpage shall put in hotchpot. &c. for thys that she may have nothing of the other landes discended. &c. for yf she shold haue any parcel of the other lande dyscended then should she haue more in yerely value then her syster. &c. which the lawe will not. &c. And as it is sayd in the cases afore sayd of two doughters or two parceners, the same maner and in lyke cases is, where there be moe sisters after that as the case of the mat ter is. &c. And it is to wete that landes and tenementes geuen in frank marpage shall not be put in hotchpot but with the landes dyscended in fee symple, or of landes dyscended in taple partition shalbe made as yf no such gyft in frank marpage had be made. Also no landes shalbe put in hotchpot with other, but landes that be geuen in frank mariage al oneiye. &c. yf any woman haue any other landes or tenementes by any other gyft in the taple shall ner put such land so geuen in hotchpot. &c. she shall haue her part of the remenaunt, discended. &c. that is as muche as the other parcener shal haue of the same remenant.

¶ Also another partycyon may bee made betwene parceners that varyeth from the partycyons aforesayde, as yf there bee three parceners and the poungest wold haue partition, and the other twoo would

not, but wyll holde in parcenary that that to the belōgeth without particiō. In thys case yf one part be alotted in seuerallte to the yongest syster after that that she oughte to haue, then the other may hold the remnaunt in parcenary and occupy in common without particion if they wyll, and such particion is good ynough. And if after the elder and myddel parcener will make particion betwene them of that that they held, they may well doe so whe they please. But where particion shalbe made by force of a wryt de participatione faciēd &c. there otherwyse it is, for there behoueth it that euery parcener haue hys part in seuerallte &c. More shalbe sayde of parceners in the Chapter of ioyntenantes and also in the Chapter of tenantes in common. &c.

Ioyntenantes. Cap. 3.

Ioyntenantes be as a man seysed of certayn landes or tenementes &c. & therof hath enfeoffed two or three or fowre, or mo, to haue and to hold to them and to theyr heyres, or to haue and to holde to them for terme of theyr lyues, or for terme of anothers lyfe, by force of whiche feoffement they be seysed, suche be ioyntenauntes.

Also yf two or three disseise another of any landes or tenementes to theyr own vse, then the dysseisours be ioyntenantes. But if they dysseyse another to the vse of one of them, the be they no ioyntenantes, but he to whom the

dye of the disseisi is made sole tenant, & the o
ther haue nothing in the tenãcy but be calle
coadiutors to the disseisin &c. And note wel
disseisin is pperly where a mã entreth into a
landes or tenemẽtz where hys entre is not le
ful, & putteth hi out ỹ hath the franktenem
&c. And it is to wete ỹ the nature of toynte
nãcy is ỹ he that survyueth shal haue only t
hole tenãcy after such estate as he hath th
toynture be cõtinued &c. As if.iii. toyntenã
be in fee siple & the one hath issue & dyeth,
they that survyue shal haue the tenemẽtz ho
and the issue shal haue nothing. And if the
cond toyntenãt haue issue & dye, yet the
that survyueth shal haue the tenementes ho
& shal haue them in fee symple to hym & to
heyres, but otherwise it is of parceners
if.iii. parceners be, & before any partition
one hath issue & dyeth, that that to hym bel
geth shall dyscend to his issue & if such a p
cener dye without issue, then that, that to
belongeth shal discend to her heyres, so t
they shal haue thys by discent & not by the
ayuour as toyntenãtes haue &c. & as the
ayuour holdeth place among toyntenãtes
in thesame maner he holdeth place among
that haue toynt estate or possession with ot
of catel royal, or catel personal. As if a le
of landes or tenementes be made to many
term of yeres he that survyueth of the les
shal haue the tenementes hole to hym dur
the terme by force of thesame lease. And

any horse, or other cattel parsonall be geuen to manye moe, he that survyueth shall haue them to hymselfe.

¶ In the same maner it is of dettes & duties &c. For yf an obligacion be made to manye for one duetie, he that survyueth shal haue al det & so it is of all other couenantes & contractes.

¶ Also some ioyntenauntes may bee that may haue Ioynte estate and be ioyntenantes for terme of theyr lyues and yet they haue seuerall inheritaunces. As the landes be geuen to two men and to the heyres of theyr two bodyes engendred. In thys case the donees haue ioynt estate for terme of theyr two lyues and they haue seuerall inheritance. For if the one of the donours haue issue & dye, the other that survyueth shall haue al by the survyuour for terme of hys lyfe. And yf he that survyueth hath also issue, and dye, that the issue of the one shall haue the halfe of the lande. and the issue of the other shall haue the other half of the lande, and they shall holde the lande betwene them in commune, and be not ioynt tenauntes but tenauntes in commune.. And the case that suche donees in such cases haue ioynte estate for tearme of theyr lyues, is thys, for thys, that at the begynnyng landes were geuen to the two, which wordes without more saying make a ioynt estate to the for tyme of theyr lyues. For if a mā will let lād to another by dede or without dede, not making mēcō what estate he hath, & of this maketh inte-

re of Iesselyn. In thys case the Iessee shall hau
estate for terme of hys lyfe, and so in so much
that the landes wer geuen to them, they ha
a ioynt estate for terme of theyr lyues: and t
cause why they haue seuerall inheritaunce
thys, in so muche that they cannot by poss
ittle haue an heyre betwene them engendr
as a man and a woman may haue. &c. then
lawe will that theyr estate and theyr inhe
taunce shalbe suche as reason wyll after
fourme and effect of the woordes of the g
and that is to the heyres that the one engen
dreth of hys body by anye of hys wyues,
the heyres that the other engendreth of
bodye by anye of hys wyues. et ceters.
et behoueth by necessite of reson that they
haue seuerall inheritaunce. And in such c
yf the yssue of one of the donees after
of the donees dye so that he hathe no yss
lyue of hys body engendred, than the don
or hys heyre may entre in the halfe as in
reuercyon, thoughe the other of the don
hath yssue alyue &c. And the cause is, fo
much that the inheritaunce be seuered. &c.
reuercio in the lawe is seuered &c. & the fa
uour of the yssue of the other shal hold no p
to haue the hole, & so as it is sayd of males
same maner it is where land is geuen to.
males & to the heires of their. u. bodies bego
¶ Also yf land be geuen to two females
to the heyres of one of them, thys is a g
ioyntour, and the one hath a freehold, and
oth

other hath fee ſimple, & if he ỹ hath the fee dye he ỹ hath ỹ free hold ſhal haue the hole by the ſurumor for ẏme of ỹſe. In ỹſame maner it is where teſtes be geuẽ to two, & to the heyres of the body of one of them engendred, the one hath free hold, and the other fee tayle. Alſo if two ioyntenantes bee ſeyſed of eſtate of ſymple, and the one graunteth a rent charge by hys dede to another oute of that, that to hym belongeth &c. In thys caſe duryng the ỹſe of the grauntoure, the rent charge is effectuall. But after hys deceaſe the rent charge is voyd as to charge the land, for he that hath the land by the ſurvyuour ſhal hold al the land diſcharged. And the cauſe is, for thys that he that ſurvyueth claymeth to haue the lande by the ſurvyour. &c. and not by diſcent of hys felow. &c. But otherwyſe it is of parceners, for yf there be two parceners of tenementes in fee ſymple, and before any partition the one chargeth that, that to hym belongeth by hys dede of a rent charge &c. and dyeth without yſſue, and that that to hym belongeth diſcendeth to the other parcener. In thys caſe the other parcener ſhal hold the lãd charged &c. for thys that cometh to the halfe by diſcent as heyre &c. Alſo yf there be two ioyntenauntes in fee ſymple within one borough where the landes and tenementes within theſame borough be deuyſable by teſtament, yf the one of the ſayd ioyntenantes deuyſe that, that to hym belongeth by teſtament &c. and dye, thys deuyſe is

voyd. And the cause is for thys that no deuise may take effect but after the death of the deuisour. And for thys that by his death all the land incontinent cometh by the lawe to hys felow that survyueth by the survivour which ne claymeth nor hath nothing in the lande, by the deuyse but in hys owne ryght by the survyuour after the course of the lawe &c. for this cause such deuyse is voyde.

¶ But otherwise it is of parceners seased of tenementes deuysable in such case of deuyse &c. Causa qua supra. Also it is commonly sayd that euery ioyntenant is seised of the land that he holdeth ioyntly &c, through and by all. And this is as much to saye that he is seysed by euery parcel and by all &c. and thys is true, for in euery parcel and by eche parcel, and by all the landes and tenementes he is ioyntly seysed with hys felowes &c.

¶ Also if .ii. ioyntenantes be seysed of certayne landes in fee symple, & that one letteth that that to hym belongeth to a straunger for terme of .ix. yere & dyeth within the terme. In this case after hys disseas the lessee may enter and occupy the halfe to hym lette during the terme &c. though the lessee neuer had possession of it in the life of the lessour by force of the lesse. And the diuersitie betwene the cause of the grant of a rent charge & this case is thys. For in the graūt of a rent charge by a ioyntenant the tenantes abyde alway as they wer afore without that, that any hath any ryght to hau

parcel

parcel of the tenemētes, but themselfe & the te
nementes abide in such plyte as they wer be-
fore the charg &c. But where a lease is made
by a ioyntenant to another for terme of yeres
&c. incontinent by force of the lease the lesse
hath right in the same land, that is to say of al
that ŷ to hys lessour belōged and to haue that
by force of the same lesse during hys terme &c.
& thys is the diuersite &c. ¶ Also ioyntenātes
if they will, may make partition betwene thē
and the partition is good ynoughe, but they
shall not be compelled by the lawe to doue it,
but if they will make partition of they⁹ pro-
per will, and agreemente, the partition shall
stand in hys strength. ℣.iii.E.quarti.

¶ Also if a ioynt estate be made of land to
the housband and the wife, and to the thyrde
parson, in thys case the housebande and the
wife haue not in the lawe in their right but
the halfe &c. And the thyrd parsone shall haue
as much as the housband and the wife hath,
that is to say, the other halfe &c. And the cause
is for that the husband & the wife be but one
person in the law, & be in like case as if estate be
made to.ii. ioyntenātes, where the one hath
by force of iointure the one half & the other ŷ
other half. In the same maner is where estate
is made to the husband & the wife & to other
two men, in thys case the housebande and the
wife haue not but the thyrd parte, and the o-
ther.ii. men the other.ii. partes &c. Causa qua
supra. More shalbe sayd of them attouchynge

ioynte-

ioyntenancy in the Chapiter of tenauntes in common tenaunt per Elegit, and tenaunt by estatute marchaunt.

¶ Tenauntes in common. Ca.4.

TEnantes in common be they that haue landes & tenementes in fee symple, fee tayle, or for terme of lyfe. &c. which haue such landes and tenementes by seuerall tytle, & not ioynt tytle, and none of them know that, that is seuerall to hym. But they ought by the law to occupy suche landes and tenementes in common, and vndeuyded to take the profites in common. And because that they come to such landes and tenementes by seuerall tytles and not by one self ioynt tytle, and theyr occupacion & possession shalbe by the law to be among them in common, they be called tenauntes in common, as yf a man enfeoffe two ioyntenantes in fee and the one of them alieneth that, that to hym belongeth to another in fee, now the other ioyntenaunt and the alyene be tenauntes in common, for thys that they be seised in such tenementes by seuerall tytles, for the alyene cometh in the halfe by the feoffement of the ioyntenaunt, and the other ioyntenant hath the other halfe by force of the fyrst feoffement made to hym and to hys fyrst fellowe, and so they be in by seuerall tytles, and by seuerall feoffementes &c. And it is to wyt that when it is sayd in any boke that a man is seised in fee, without more saying. It shalbe vnder-

vnderstand fee symple, for it shall not be vnderstand by such woord in fee, that a man is seised in fee tayle, except that there be putte therto such addicyon that is to saye fee tayle. ¶ Also yf three toyntenantes be, and the one of them alieneth that, that to hym belongeth to an other in fee. In thys case the alyene is tenaunt in common with the other two toyntenantes. But yet the other two toyntenantes be seysed of the two parties toyntly, and of these two parties the surmmour betwene them holdeth place. &c.

¶ Also yf there be two toyntenantes in fee, and the one geueth that, that vnto hym belongeth to an other in the tayle, the donee & the other toyntenant be tenantes in common &c. But yf the landes be geuen to two men and to the heyres of theyr two bodyes ingendred the donees haue toynt estate for tme of theyr lyues, and yf eche of them haue yssue and dye, theyr issues shall holde in common &c. But yf landes be geuen to two abbottes, as to the abbot of westmynster, and to the abbot of. S. Albons, to haue and to holde to them and to theyr successours, in thys case they haue incontinente at the begynnynge estate in common, and not toynt estate. And the cause is for thys, that euery abbot or other soueraygne of an house of religion before that he be made abbot or soueraygn, was but a dead man in the law. And when he is made abbot he is as a man parsonable in the lawe, alonely to purchase

chase and to haue lands and tenementes and
other thynges to the vse of hys house and no
to hys own proper vse, as other secular me
may, And for thys in the begynnyng of they
purchase they be tenantes in common. And
the one of them dye, the abbot that suruyueth
shal not haue al by the suruyuour but the su
cessour of the abbot that dyeth, shall holde th
halfe in common with the abbot that surui
ueth &c.

¶ Also if landes be geuē to an abbot & to a
cular man to haue and to holde to them, th
is to say to the abbot and his successours, an
to the secular mā, to hym & to his heyres th
haue estate in common. ¶ Cansa qua supra.

¶ Also if landes be geuē to two men to hau
& to hold, the one half to the one & to his he
res, & the other halfe to the other, and to
heyres they be tenantes in common &c.

¶ Also if a man seysed of certaine landes
feoffeth another in the halfe of the same land
without any speche or allignmēt or limitati
of the same half in feuerall at the time of
feoffement, thē the fesse & the feffour shal ho
the parties of the lād in comō. And in
maner as is afore said of tenantes in cōmō
landes or tenemētes in fee simple or fee ta
In the same maner may it be sayd of tenan
for terme of life. As the two ioyntenantes
in fee, & the one letteth to a man that, that
to hym belongeth for terme of lyfe, and the
ther ioyntenant letteth that, that to hym be
long

longeth to an other for terme of life these two lessees be tenauntes in common for terme of theyr lyues &c.

¶ Also if a man let landes to .ii. mē for terme of theyr liues, & the one graūteth al hys estate of that, that vnto hym belōgeth to another &c. than that other tenant for terme of lyfe, & he to whō the graunt is made be tenantes in cōmō durynge the tyme that both lessees be alyue.

¶ And it is to be remembred that in all other such cases though that they bee not here expressely named or specified, if they be in lyke reason they be in lyke lawe.

¶ Also there be two ioyntenantes in fee and the one letteth that, that vnto hym belongeth to another for terme of lyfe during hys lyfe & the other tenaunt that dyd not let, bee tenantes in comon. And vpon thys case a question may ryse as thys, Put the case that the lessour hath issue & dieth, leauing ỹ other ioyntenant hys felow, & liuing the tenant for tme of life, the questiō may be such, if ỹ reuercion of the halfe &c. ỹ the lessour hath, shal discend to the issue of the lessour, or ỹ the other ioyntenant shal haue it by the survyuour. And some haue sayde in thys case, that the other ioyntenant shal haue the reuercion by the survyuour, and their reason is such, whē the ioyntenātes were iointly seised in fee simple &c. though the one of thē made estate of ỹ, that vnto hī belōgeth for term of life, & though that he hath thereof frankt enement of that, that to hym belongeth

by the

by the leaſe, yet he hathe not ſeuered the fee ſymple. But the fee ſymple abydeth to hym ioyntly as it is was before. And ſo it ſemeth vnto them that the other ioynt tenaunt that ſurvyueth, ſhall haue the reuercion by the ſurvyuour &c. And other haue ſayd the contrary, and thys is theyr reaſon when one of the ioynt tenauntes letteth thys that to him belonged to another for terme of hys lyfe, that by ſuche leaſe the franktenement is ſeuered from the ioynture. And by the ſame reaſon the reuercion that is dependant vnto the ſame franktenement, is ſeuered from the ioynture. Alſo the leſſour had reſerued to hym a yerely rent vpon the leaſe, the leſſour only ſhall haue the rent. &c. The which is a proofe that the reuerciō is only in hi, & that the other hath nothing in the reuerciō &c. Alſo yf the tenāt for terme of life were impleded &c, & made defaut after the faute, than the leſſour ſhalbe only of thys receyued to defend hys ryght, and hys felowe in this caſe in no maner ſhalbe receyued, which proueth that the reuercion of the halfis only in the leſſour. And ſo by conſequens, if the leſſour dye ſurvyng the leſſee for terme of hys the reuercion ſhall diſcend to the heyres of the leſſour &c. and not come to the other ioynt naunt by the ſurvyuour. Ideo quere. But in thys caſe yf the ioyntenāt that hath the franktenement haue yſſue and dye, ſurvyng the leſſour and the leſſee, than it ſemeth that the yſſue ſhall haue the halfe in hys demeſne as

fee by dyscent for thys that the frankstenement may not by nature of the toyntour be annexed to a reuercion &c. And it is certayn that he ꝑ letteth, was seysed of the half in hys demesne as of fee, and none shall haue any toynture in hys frankstenement. Ergo thys shall discende to syssues. Sed quere. But if it be thus, that the law in thys case is such, that if the lessour dye, leauing the lessee, and leauyng the other toyntenaunt that hath the frank tenement of the other halfe, that the reuercion shal descend to the issue of the lessour, then is the toynture and the tytle that any of them may haue by the surupuour by the ryght of the toynture annulled and all vtterly defeted for euer.

¶ In the same maner it is if the toyntenaunt that hath the frankstenement dye, leauyng the lessour and the lessee, yf the lawe be such that hys frankstenement and fee that he hath in the halfe shall discende to hys issue, then the toynture shalbe defeted for euer &c.

¶ Also yf three toyntenaunts bee, and the one releaseth by hys deede to one of hys fellowes all the ryght that he hath in the land, then hath he to whom the release is made the thyrd part of the landes by force of the release and he and hys felowe shall holde the other ii. partz toyntly. And as to the thyrd part that he hath by force of the release, he holdeth the thyrd part wᵗ hymself, & hys felow in commō. ¶ And it is to witte that sometyme a dede of release shall take effecte and shall be in vse to

put

put the estate of him that made the release, to hym to whome the release is made, as in the case afore sayd.

¶ And also if a ioint estate be made to the husband & his wyfe, and to a thyrd parson, & the third p̄son releaseth his right that he hath &c. to the husband, thē hath the husband the halfe that the thyrd parson had, & the wyfe of thys hath nothing. And if in such case the thyrd release &c. to the wife not naming the husband in the release, thē hath the wyfe the halfe that the thyrd parsō had. And the husband had nothing of this, that in right of his wife, for this that in such case the release shal enure to put the estate to him to whō the release is made of al that, that belonged to him that made the release &c. And in some case a release shal enure to put al the right that he hath that made the release to hym, to whome the release is made. As a manne sesed of certayne landes and tenementes, is dissesed by two dysseysoures, if the dysseisy by hys dede release all hys ryghte et cetera. to one of the dysseisours, than he to whome the release is made, shall haue and holde all the tenementes to hym onelye, and putte out hys felow of euery occupacion of it. And the cause is for thys that the two dysseisours were sesed in the tenementes by wrong by them doone agaynst the lawe. And when one of them happeth the release of him that had right to enter &c. Thys right in such case resteth in hym to whom the releas[e]

release is made, and is in suche plight as if he that had the ryght had entred and enfeoffed hym &c. And the cause is for this that he that hath before had an estate by wrong that is to say by dysseisyn now by the release a rightfull estate.

¶ And in some case a release shall enure by way of extinguishment & in such case such release shal help the tenant nat to whom the release was not made as wel as hym to whom the release is made. And if a man be disseysed & the disseisour maketh a feoffement to.ii.mē in fee if the disseisi release to one of the feoffours in fee by his dede thā such release shall enure to both the feffees for this that the feffees haue estate by the law that is to say by the feoffmēt & not by wrōg done to any other.

¶ And in the same maner is, yf the disseisour make a lease to a manne for terme of lyfe, the remaindre ouer to an other in fee if the disseisi release to the tenaunt for terme of life al hys right &c. This release enureth as wel to hym in the remaindres to the tenāt for terme of life &c. And the cause is for this & tenāt for terme of life commeth to his estate by the course of the law. And for this the release shal enure & take effect by way of extinguishment of the ryght of hym that hath released &c. And by thys release the tenaunt for terme of lyfe hath no great estate thā he had before the release made vnto hym, & the right of him that released is all vtterly extincte. And in so muche that suche

release

releaſe cannot enlarge the eſtate of the tenā
for terme of lyfe it is reaſon that the releaſe
ſhall enure to hym in the remainder &c. Why
ſhalbe ſayde of releaſes in the Chapter of re-
leaſe.

¶ Alſo if there be two parceners, and the
one alyeneth that vnto hym belongeth to an-
other, than the other parcener and the alienee
be tenantes in common.

¶ Alſo tenauntes in common may be by tyt-
of preſcripcion, yf the one and hys auncеſtres
or they that whoſe eſtate he hath in the halfe
haue holden in common, the ſame halfe wout
the other tenaunt that hath the other halfe
and with hys auncеſtres or them whoſe eſ-
tate he hath at vndeuyded fro tyme where-
no memory renneth &c. And diuers other ma-
ners may make and cauſe men to be tenantes
in common that be not here expreſſed.

¶ Alſo in ſome caſe tenantes in comon ought
to haue theyr poſſeſſion ſeuerall actions, and
in ſome caſe they ſhal ioyne in one accion. for
if there be two tenantes in common and they
be diſſeyſed, they ought to haue agaynſte the
dyſſeiſour two aſſiſes and not one aſſyſe, for
euery of them ought to haue an aſſyſe of his
halfe &c. and the cauſe is for thys þ tenantes
in common were ſeiſed by ſeuerall tytles, but
otherwyſe it is of ioyntenantes. For if two
be &c. ioyntenantes and they be dyſſeiſed they
ſhall haue in all theyr names but one aſſyſe
becauſe that they had but one ioynt tytle.

¶ Al

Also yf there be thre toyntenauntes and one releaseth to one of his felowes all the ryght that he hath and after the other two be disseased of the whole. &c in this case the other shal haue seueral assyses in this fourme, ỳ is to saye they shall haue in bothe theyr names one assyse of the two partes &c. for this that they helde the two parties toyntlye at the tyme of the disseisin. And as to the thyrde parte, he to whom the release was made ought to haue therof an assyse in his own name, for this that as to the thyrde part he is tenant in common &c. for this that he came to the thyrde part, by force of the release and not onely bee force of the toynture.

Also as to sue actions that toucheth the toyaltie, there is diuersitie betwene parceners that be in by diuers discētes, and tenats in common. For yf a man seased of certayne landes in fee haue issue two doughters and dye and thei enter. &c. and eche of them hath issue a sonne and dye without partition made betwene them by which the one halfe discendeth to the sonne of the one parcener, and the other halfe discendeth to the sonne of the other parcener. and they enter and occupy in comon and be disseased, in this case they shal haue in their two names one assise and not two assises. And the cause is, that though thei come to by diuers discētes. &c. yet they be pceners & wilt de participatione facidā ieth betwene thē. And they be not pceners hauing regarde

or respect onely to the seysyn and possessiō of
theyr mothers, but they be parceners hauyng
more respect to the estate that descended from
their grandfather to theyr mothers. For they
may not be parceners where their mothers
wer not parceners before. &c.

¶ And so to such respect & consideracion, that
is to wyte as to the fyrst descente that was
to their mothers thei haue a tytle in parcene-
ry, the which maketh thē parceners. And also
they be but as one heyre to their comon ance-
ster that is to say, to theyr graundfather from
whō the land descended to their mothers. And
for these cases before partycion betwene thē
&c. they shold haue one allyse though they com
in by seueral descentes. &c.

¶ Also yf there be two tenantes in comon
of certayn landes in fee, & they gaue the same
land to another man in the tayle, or let it to a-
nother manne for terme of lyfe, reldyng an an-
nuitye or certayn rent, and a pounde of peper
or an hawke, or an horse, and they be ne seased
of these seruices and after all the rent is be-
hynde, and they distrayne for it, and the tenant
maketh them rescous.

¶ In that case as to the rente and the
pounde of peper, they shall haue two allyse,
and as to the hawke and the horse but one al-
lyse, and the cause why they haue twoo al-
les as to the rente and pounde of peper is
thys, in so muche that they were tenauntes
in comon by seuerall tytles and whan they
made

made a gyft in the taple or leafe for terme of lyfe. &c. fauing to the reuercion & yelding to them certayn rent. &c. Such reſeruacion is incident to the reuercion.

¶ And for this that theyr reuercion is in comon and by ſeuerall tytles, as theyr poſſeſſion was before theyr rent, and other thinges that may be ſeuered and were to them reſerued vpon the gyft or vpon the leafe which bee incydent by the law to the reuercion, ſuch thinges ſo ſeuered was of the nature of the reuercion which reuercion is to them in common by ſeuerall tytles. And it behoueth that the rent of the pounde of peper which may be ſeuered is to them in common, by ſeuerall tytles. And of this they ſhall haue two aſſyſes and euerye of them in his aſſyſe ſhall make his playnt of the half of the rent and of the half of the pounde of peper. &c.

¶ But of the hawke and the horſe which cā not be ſeuered, they ſhall haue but one aſſyſe for a man may not make a playnt in aſſyſe of the half of an hawke or of the half of an horſe. &c. In the ſame maner it is of other rentes and ſeruices that tenauntes in common haue in poſſe by diuers tytles.

¶ Alſo as to accions perſonels, tenauntes in common ought to haue ſuch accions perſonels ioyntly in all theyr names, that is to ſaye of Treſpas, or of offences that touche theyr tenauntes in common. As of breakyng of theyr howſes, breakyng of theyr cloſes, and

paſſures waſſyng & defoulyng of their graſſe, cuttyng of theyr woode and to fyche in theyr pondes and ſuche other. In this caſe tenants in comon ſhal haue one accion iopntly & recouer iopntly damages becauſe that the accion is in the parſonaltie and not in the realtie.

¶ Alſo yf two tenantes in comon make a leaſe of theyr two tenementes to another for terme of yeres yeldyng vnto them yerely a certayn rent yf the rent be behynde. &c. the tenant ſhall haue one accion of det agaynſt the leſſee and not diuers actions for that the accion is in the parſonaltie.

¶ Alſo tenauntes in comon may make partition betwene them yf they wyll though they ſhall not be compelled by the lawe. But yf they make partition betwene the by theyr agrement and aſſent ſuch partition is good enough, as it is adiudged in the boke of aſſyſe. 9.3.E.4.

¶ Alſo as there be tenauntes in comon of landes or tenementes. &c. as is aforeſayd. In theſame maner there be poſſeſſions and properties of chatel real and chatel parſonal. As yf a leaſe be made of certayn landes to two men for terme of .xx. yeres, and whan they be therof poſſeſſed. the one of the leaſes graunteth that. that vnto hym belongeth before ỹ terme to another than he to whō the grant is made and the other ſhal holde and occupy in comon.

¶ Alſo if two iopntenantes haue the warde of the body & of the landes of the child within

age,

age and that one of them granteth to another that, that vnto hym belōgeth of the same ward than the graunt and the other that graunteth not shal haue and holde it in comon. &c.

¶ In the same maner it is of chatels parsonels as yf two haue a ioynt estate by gyfte or by bying of an horse or an oxe. &c. the one of them graunteth that that to him belongeth of the same horse or oxe. &c. Than the graunt and he that graunted not shall haue and possesse suche chatel parsonell in comon. &c. And in such cases where diuers parsons haue chatels reals or parsonels in comon and by dyuers titles, yf the one of them dye, the other that survyueth shall not haue that by the survyuour. But the executours of hym that dyeth shall holde & occupy that with hym ỹ survyueth as theyr testatour dyd or ought in this syse. &c. In this that theyr tytles and right in this case were seuerall,

¶ Also in this case aforesaide yf two haue estate in comon for terme of yeres & the one occupy all and put the other out of his possession and occupacion. Than shal he that is put out of occupacion haue agaynst that other a writte de ejectione firme for the halfe agaynste the other. In the same maner it is where two holde the warde of landes or tenementes during the nonage of a child, yf one put out the other of hys possession, he that is out shal haue a writte of ejectment de garde of the halfe in hys that thole thinges be Chatels reals,

and may be apporcioned and seuered. &c. B
no such accion of trespas, that is to say. Quare
clausum suum fregit et herbam suam consu
cauit & consumpsit. &c. And suche lyke accion
the one may not haue agaynst ỹ other, for ty
that eche of them may enter and occupy in c
mon. &c. throughe and by all the tenement
which they holde in common. But yf two
possessed of chatels personels in commō by
uers tytles, as of an horse or an ore or a bo
yf the one take it all to hymself out of the p
session of the other, the other hath none ot
remedy but to take this of hym that hath do
to hym the wrong for to occupy in comō
he may see hys tyme.

¶ In the same maner it is of chatell re
that may not be seuered as the case of
two be possessioners of a warde of the bod
a chylde within age, yf one take the chylde
of the possession of the other, the other hath
remedy by any accion by the lawe but to
the chylde out of the others possession wh
seeth his tyme. &c.

¶ Also whan a man in pledyng will
a dede of feoffement made vnto hym, or a
in the tayle, or a lease for terme of lyfe of
landes or tenementes, there he shall saye
force of which feoffement gyft or lease he
seased, &c.

¶ But wher a mā will pleade a lease or a
made vnto hi chatel real or parsonal, there
shall saye yforce of whiche he was poss
Wh

Wore shalbe sayd of tenantes in comon in the chapiter of releases, contymacyons & tenātes par elegit.

¶ Estates vpon a condicion. Capi. v.

Estates that men haue in landes or tenemtz be in two maners. That is to say, thei haue estate vpon condicion in dede or vpon condicion in lawe. Vpon condicion in dede is, as a man by dede indented enfeoffeth another in fe reserving to him and to his heires yerely a certayn rēt payable at one feast or at diūs festes yere, vpon condicion that yf the rent be behynde. &c. that it shalbe lawfull to the feoffour and to hys heyres to enter into the landes or tenements. &c.

¶ Or yf the land be alyened to another in fe to yelde vnto hym certayn rent. &c. And yf hap that the rent be behynde by a weke after any day of payment of it, or by moneth, or a halfe yere after any day of payment, that then it shalbe lawfull the feoffour and to hys heyres to enter. &c.

¶ In this case yf the rent be not payde at such a tyme, or before such a tyme limited and reserved within the condicīō comprysed in the indenture thā may the feoffor or his heires enter into such landes or tenemtz, & them in hys owne estate to haue and to holde, and of hys to putte the feoffee cleane oute, and it is called estate vpon condicion, for thys that the

estate of the feoffe is defensable yf the condicion be not parfourmed.

¶ In the same maner it is yf landes be geuen in the tayle, or let for terme of lyfe, or for terme of yeres, vpon suche condicion. &c. But where a feoffement is made of certayn landes reseruyng certayn rent vpon suche condicion that yf the rent be behynde that it shalbe lawfull to the feoffour and his heyres to enter, the lande to holde tyll they bee satysfyed or payde of theyr rent behynde. &c. In this case yf the rent be behynd and the feoffour and his heires enter, the feoffe is not excluded clerely out. But the feoffour shall haue and holde the lande and take the profites tyll that he be satisfyed of the rent behynde. And when he is satisfyed, the feoffe may reenter in the same and holde it as he dyd before, for in such case the feoffour shal haue it, but in maner for a tyme in the meane tyme, tyll he be satysfyed of the rent. &c. shall take the profytes in the meane tyme.

¶ Also diuers wordes among other there be that by vertue of themselfe make estate vpon condicion. One is this worde of condicion as. I enfeoffeth B. of certaine lande to haue and to holde to the same. B. and his heyres vpon condicion that the same B. and his heyres shall paye or do to be payde to the foresayd. A. and to his heires yerely such rent. &c. In this case without any more saying the feoffee hathe estate vpon condicion, Also if the condicion were

such

such. Prouided alway that the aforesayde B. pay or do to be payde to the aforesayd A. suche rent. Or yf they were thus, so that ꝯ aforesayd B. pay or do to be payde suche rent. In these cases without any more sauing ꝯ feoffee hath estate but vpon condicion, so that if he fforme not the condicion the feoffour and hys heyres may enter. &c.

Also other wordes there be in a dede that causeth the tenauntes to be condicioners, as vpon such a feoffement a rent is reserued to the feoffour. &c. and after it is put in dede that yf it chaunce the aforesayde rent to be behynd in parte or in all. &c. that than it shalbe lawful to the feoffour and to his heyres to enter. And this is a dede vpon a condicion. But there is diuersite betwene these wordes if it chaunce. &c. and the wordes next aforesayde. For thys worde if it chaunce. &c. is nought worthe to suche condicion, but if it haue these wordes folowyng, that is to saye, that it shalbe lawful to the feoffour and to his heyres to enter. &c. But in these cases aforesayd it needeth not by the law to put such clause, that is to saye, that the feoffour and hys heyres may enter. &c. for this that they may so dooe by force of the wordes aforesayde, because they contein in themselfe in the lawe a condicion, that is to saye, that the feoffour and hys heires may enter. yet it is commonlye in all such cases aforesayde to putte suche clauses in the dedes, that is to saye, yf the rent be be-

hynde

hynde.&c.that it shall be lawfull to the feoffour and his heyres to enter.&c. And this is well done to that intente for to declare and expresse to the lay men that be not learned in the law,the maner and the condicion of the feoffement.&c. As a man seased of lande as of frankstenement,let thesame lande to another by dede endented for terme of yeres,yelding him to hym certayn rēt,it is vsed to put in the dede that yf the rent be behynde at the day of payment by a moneth.&c. That than it shalbe lawfull to the lessour to dystrayne.&c.and yet the lessour may dystrayne of common right for the rent behynde.&c.though suche wordes were not set in the dede.&c.

¶ Also yf any feoffement be made vpō a condicion,that yf our feoffour pay at a certayn daye.&c.xx.li.of money that then the feoffee may enter.&c. In thys case the feoffee is called tenaunt in mortgage,that is asmuche to say in frenche as mortgage,and in latin mortuum padium,and in Englishe a dead pledge. And it semeth that the cause why it is called mortgage is for that,that it standeth in doubt if the feoffour may pay at the daye lympyted suche summe or not,and yf he pay not,then the lande that is put in pledge vpon condicion for the paymente of the money,is gone from hym for euer. And so deed as to the tenant.&c.

¶ Also as a man may make a feoffement in fee in mortgage,so may a man make a gyfte in the tayle in mortgage, and a lease for terme

of life, or for terme of yeres in mortgage And such tenauntes be tenantes in mortgage after the state that they haue in the landes, et cetera.

Also yf a feoffement be made in mortgage vpon condicion that the feoffour shal pay such summe at such a day. &c. as is betwene them by theyr dede endented accorded and ympytted though the feoffour dye before the day of payment. &c. yet yf the heyre of the feoffour pay the same summe within the day to the feoffe, or proffre hym the money, and the feoffee refuseth to receyue it, then maye the heire enter in to the landes. And yet the condicion is yf the feoffor pay suche a summe at such daye. &c. and not mencion in the condicion of any payment to be made by hys heyre. But for this that the heyre hath interest of ryght in the condicion. and the intente was but that the money shulde bee payde at the daye sette. &c. and the feoffee hathe no more damage to bee payde by the heyre, then thoughe he were payde by the father, et cetera, for thys cause if the heyre paye the monepe or tendeth the money at the daye sette, et cetera, and the other refuseth it, he maye well enter. But a straunger of hys owne head that hath no interest. &c. woulde tende and paye the money at the daye sette then the feoffee is not bounde to receiue it &c.

And it is to be had in mynde that in suche case where suche lawfull tender of the money

is made and the feoffee refuseth to receyue it wherfore the feoffour or his heyres doe entre &c. then the feoffe hath no remedy to haue the money by the comon law, for this that it shall be erected his owne folye that he refused the money when lawfull profer was made of it vnto hym. &c.

¶ Also yf a feoffement be made in such condicion, that yf the feoffe paie to the feoffour at such a daye betwene them limited. xx. li. that than the feoffe shall haue the land to him and to his heyres and yf he faple to pay the money at the day. &c. that then it shalbe lawfull to the feoffour or to his heyres to enter. &c. and if after before the daye set, the feoffee selleth the land to another, and therof maketh a feoffement vpon him in this case yf the seconde feoffe tende the summe of money at the daye letter the feoffour, and the feoffour refuseth it. &c. hath the seconde feoffe estate in the land clere without condicion. And the cause is for, that the seconde feoffe had interest in the condicion for saluacion of his tenauncy. And in this case it semeth that if the fyrst feoffe after such sale of the lande wyll tende the money at the daye &c. to the feoffour, that shall bee good ynough for the saluacion of the estate of the seconde feoffe, for this that the fyrst feoffe was party to the condicion, and so the tender of anye of them is good ynough &c.

¶ Also if the feoffemt be made vpon condicion that yf the feoffor pay a certain sum of money

ij

to the feoffe that then it shalbe lawful to the feoffour and to hys heyres to enter. &c. In thys case yf the feoffor dye before the daye of payment, and the heyre will tender to the feoffe the money, such tender is void, for thys that the tyme within which the tender ought to be made is past. For when the condicion is, that if the feoffor pay the money to the feoffe, this is asmuch to say, that yf the feoffour duryng hys lyfe pay the money to the feoffee. &c And when the feoffor dieth then the tyme of the tender is past, But otherwyse it is, wher a day of payment is lympted, and the feoffour dieth before the day then may the heyre tender the money as it is aforesaide, for thys at the tyme of the tender was not past by the death of the feoffor. Also it semeth in such case wher the feoffor dyeth before the day of payment yf the executors of the feoffor, tender the money to the feoffe at the day of paymēt, the tender is good ynough. And yf the feoffe refuse thys the heires of the feoffor may enter. &c. And the cause is, for this that the executors represent the ꝑson of their testator. &c. And note wel, ỹ in such cases of condicion of payment of certayn money in grosse touching landes or tenementes if lawful tender be once refused, he ỹ ought to pay the money is therof alloyed and clerely discharged for euer after.

Also if the feoffe in mortgage before the day of payment that shalbee made vnto hi make hys executors & dye, & his heire entreth into the lād

as

as he ought. It semeth in this case ꝑ the fe
four ought to pay the money at the day set
the executours, and not to the heyr of the fe
fee for this that the money at the begynn
belonged to the feoffe in maner as a duete.
And shalbee vnderstande that the estate w
made because of borowyng of the money
the feoffee, or because of another dutye. a
for thys the payment shall not be made to
heyr of the feoffe as it semeth. But the wo
of the condicion may be such, that the pay
shalbe made vnto the heyre as ꝑ the condi
wer, that the feoffor pay to the feoffe or to
heyres such a sum at such a day. &c. There
ter the death of the feoffe if he dye before
day limited, then the payment ought to be m
to the heyre at the day set &c.

¶ Also in such case of a feoffment in mortg
a question hath bene demanded in what pl
the feoffor is bound to tender the money to
feoffe at the day set. &c. And some haue s
that vpon the lande so holden in mortgage
this that the condicion is dependant vpon
lande, and they haue sayde that ꝑ the feoff
be redy vpon the land to pay the money a
feast or day set, and the feoffee be not at
tyme ther, that then the feoffour is exclud
and discharged of payment of the money, for
that no defaut was in him, but it semeth to
men ꝑ the law is contrary, & the defaut is
For he is bound to seke the feoffe if he be
at any time in any maner of place within
realm

realme of England. As if a man be bound in an obligacion of.xx.li. vpon condicion indosed vpon the obligacion that if he pay to hym to whom the obligacion is made at suche a day. .li. that then the obligacion of.xx.li. shall lese his force and shal be holde for nought in this case it behoueth hym that made the obligacion to seke hym to whom the obligacion is made, if he be within Englande, and at the daye sett to tendre to hym the sayd x.li. &c. And otherwyse he forfaiteth the sum of.xx.li. comprysed within the obligacion, and so it semeth in the other case &c. And though that some haue sayd that the condicion is dependant vpon the lād this is not proued that the sesaunce of the condicion to be parfourmed ought to be mad vpon the land. &c. No more then yf the condycion wer that the feoffour should do at such a .&c. an especial corporal seruice to the feffe naming the place wher the corporall seruices should be done. In this case the feoffor ought to do such corporal seruice at the daye vnto the feoffe i whatsoeuer place in Eng and that the feoffe be if he will haue auaunt of the condicion. &c. And so it semeth in other case. And it semeth to them that it may bee more properly sayde that the estate of the lande is dependaunt vpon the condicion. which is asmuche to saye, that the condycion is dependaunt vpon the sayde. &c. but enter. &c.

But yf a feoffement in fee be made reseruyng

uyng to the feoffor an annuel rent, and for
faut of payment a reentre. ꝛc. in this caſe it
deth not to the tenant to tender the rent wh
it is behynde, but onely vpon the lande,
this that this is a rent goyng out of the la
for this is rent ſecke. For yf the feoffour b
once ſeaſed of this rent, and after he comm
vpon the lande. ꝛc. and the rent is denyed
ec. he maye haue aſſyſe of nouel diſſeiſin,
though he may entre because of the condi
broken yet he may choſe, that is to ſay, to
ter or to haue an aſſyſe. And ſo is there di
ſutie as to the tender of the rent that is go
out of the land and of tender of a nother
in groſſe which is not goyng out of any la
And therfore it ſhalbe ſure and a good th
for them that wyll make ſuche feoffement
mortgage, to put and let a ſpecyal place
the money ſhalbe payde. And the more ſp
all that it is put the better it is for the fea
As yf A. enfeoffe. B. to haue to hym
to hys heyres vpon ſuche condicion, that y
paye to B. in the feaſt of ſaynct Mychaell
archangell next comig in the cathedral ch
of ſ. Paul of London within .4. houres n
before the houre of none of the ſame feaſt a
rode loft of the north dooze within the ſa
church or any other certain place within
ſame church that than it ſhalbe lawfull to
forelayd. A. and to hys heyres to enter. ꝛc.
ſuche caſe it nedeth not to ſeke the feoffe
any other place but in the place compr
an

in the indenture noꝛ to be there moꝛe longer tyme than the tyme ſpecifyed in the ſame indẽture, foꝛ to tender oꝛ paye the money to the feoffee.

Alſo in ſuch caſe where the place of payement is limit, the feoffee is not bounde to receyue the payment in none other place, but in the place ſo limytted. But yet if he receyue the payment in any other place, thys is good ynough and as ſtrong foꝛ the feoffour, as yf the reſceyt had be in the place ſo limytted ꝛc.

Alſo in thys caſe of feoffement in moꝛtgage, if the feoffour pay the feffee an hoꝛſe oꝛ a cup of ſyluer, oꝛ a tyng of gold, oꝛ any other ſuche thyng in full ſatiſfaccion of the money, and the other thys receyueth, thys is good ynough & as ſtrong as if he had receyued the ſumme of money, though the hoꝛſe, oꝛ any of the other thynges be not the twenty parte wooꝛth in value of the ſumme of money, foꝛ thys that the other hath accepted it in playn and full ſatiſfaccion.

Alſo yf a manne enfeoffe another in fee vpon condicion that he and hys heyꝛes ſhall yelde to a ſtraunger and hys heyꝛes a pereiye rent xx s. and yf he and hys heyꝛes faile of payment of thys, that then it ſhalbe lefull to the feoffour and to hys heyꝛes to entre, thys is a good condicion. And yet in thys caſe, though ſuch a pereiy rent be called an annuell rent, thys is not properly a rẽt, foꝛ if it ſhalbe rent, it ought to be rent ſeruice, rent charge, oꝛ rent

seeke. & yet it is none of them, for yf the straunger wer seysed of thys & after it wer to hym denyed, he shall neuer haue assyse of thys, for thys that it illueth not out of any landes, and so the straunger hath no remedy if any suche pereiye payment be had behynd in tyme of the case, but that the feoffour and hys heyres may entre &c. and yet yf the feoffour and hys heyres entre for defaute of payment, then such rent is gone forever. And so such rent is but a payment set to the tenant and to hys heyres, that if they will not pay thys after the fourme of the indenture that they shall lease theyr land by the entre of the feoffour or hys heyres for defaute of payment. And in thys case it seemeth that the feoffee and hys heyres ought to seeke the straunger and hys heyres if they bee in England, because that no place is limited where the payment shalbe made, and because that suche rent is not goyng out of any land &c.

¶ And here note well .ii. thynges. One is that no rent that is properly sayd rent may be reserued vpō any feffement, gyft or leale, but only to the feffor or to the lessor or to theyr heires & in no maner may be reserued to any straunge parsone. But if .ii. ioyntenantes make a lease by deede indented reseruing to the one a certayn pereiye rent, that is good ynough to hym to whom the rent is reserued for thys that he is priue to the lease and not a straunger to the &c. The second thing is, that no entre or rec-

fyn

tre which is all one, may be reſerued nor ge-
uen to any parſone, but onely to the feoffour
or to the donour or to the leſſour, or to theyr
heyres, and ſuch entre may not be alienedd nor
granted to any parſon. ¶ For if a mã let landes
to another for terme of lyfe by indenture, rel-
ding to the leſſour and to his heyres a certain
rent. ¶ for defaut of paymẽt a reentre &c. if af-
ter the leſſour by a dede graũt the reuerciõ of
the land to another in fee, and the tenant for
terme of life attorneth &c. if the rent after be
behynd the graũt of the reuerciõ may diſtrain
for the rent, for thys that the rent is incident
to the reuercion, but he may not entre into the
land and putte out the tenaunt as the leſſour
myghte or hys heyres yf the reuercion hadde
been continued in themet cetera. And in
thys caſe the entre is taken awaye at all tyr-
mes, for the graunte of the reuercyon maye
not enter, Cauſa qua ſupra. And the leſſoure
nor hys heyres may not enter, for if the leſ-
ſour may entre. then he ought to be in his firſt
eſtate &c. and that may not bee, for thys that
he hath from hym the reuercion &c.

Alſo if there be lord and tenaunt, and the
tenant make ſuch a leaſe for terme of lyfe. rel
ding to the leſſour and to hys heyre ſuch rere
rent, and for defaut of payment a reentre &c.
after the leſſour dye without heyre, duryng
the eſtate of the tenaunt for terme of lyfe. by
whiche the reuercyon commeth to the lorde
by waye of eſchete, and after the rent of the

tenaunt for terme of ipke is behynd, the lord may diſtrayn the tenant for the rent behynd, but he may not enter into the land by force of the condicion &c. for thys that he is not heyre to the feoffour &c.

¶ Also if land be granted to a man for terme of yeres vpon a condicion, that if he pay to the grauntour within two yeres. xl. markes, that then he shal haue the land to hym and to his heyres. &c. In thys case, if the graunte entre by force of the graunt, and after he payeth to the grauntour. xl. markes within the. ii. yeres yet he hath nothyng in the land but for terme of the two yeres, for thys that no liuerey of seisin was to hym made at the begynnyng. for if he had franktenement and fee in thys case because he hath performed the condicion. he should he haue frank tenement by force of the fyrst graunt where no liuerey of seysin was made therof, which should be agaynst reason &c. But if the grauntour had made liuerey of seisyn to the grauntee by force of the graunt, then hath the grante the frank tenement and the fee vpon the same condicion.

¶ Also if landes be graunted to a manne for terme of fyue yeres, vpon condicion that he pay to the grauntour within the fyrst two yere. xl. markes that than he shal haue fee elles but for terme of the fyue yeres, and no̅ seisin of seysin is made to hi by force of the graunt. Now he hath in fee simple cōdicionel &c. And if in thys case the graunt pay not to the grau-

tour

tour the .ix. markes within the ſame two yȝll yeres thā immediatly after the ſame two yeres the fee and the frankatenement is and ſhalbe adiudged to the grauntour, for thys that the grauntour may not after the two yeres incontinent enter vppon the graunt, for thys that the graunte hath yet tytle by three yeres to haue and to occupy the land by force of the ſame graunt. And ſo for thys, that the condicion of parte of the graunte is broken and the grauntour may not enter, the lawe ſhal putte the fee in franke tenement in the grauntour. For yf the grauntour in thys caſe made waſt then after the breakyng of the condicion &c. and after the two yeres the grauntoure ſhall haue hys wrytte of waſt, and thys is a good proofe that the reuercion is to hym &c. But in ſuch caſe of feoffmentes vpon condicio where the feoffour may enter lawfully for the condicion broken &c. There the feoffour hath the frankatenement before the entre. &c.

Alſo if a feoffment be made vpon ſuch condicion that the feoffee ſhall geue the lande to the feoffour, and to the wyfe of the feoffour, to haue and to hold to them and to the heires of theyr two bodies engendred, and for defaute of ſuche iſſue, to remayne to the ryghte heyres of the feoffour. In this caſe if the husband dye, liuyng the wyfe before eſtate in the tayle made to hym, than ought the feoffee by the lawe to make eſtate to the wyfe, as lyke to the condicion, and as lyke to the entent of

of the condicion as he may make it, that is to say, to lette the land to the wyfe for terme of lyfe without impechement of waste, then maynder after her decease to the heyres engendred of the body of her husband and hers, and for defaut of such issue, the remaynder to the right heyres of the husband.

¶ And the cause why the lease shalbe made in thys case to the woman sole without impechement of wast is for thys that the condicion is, that the state shalbe made to the husband & hys wife in the tayle. And if such estate had be made in the life of the husbād the after the death of her husband, she had estate in the tayle sole which estate is without impechement of wast, and so it is reason that after a man may make estate to the intent the condiciō &c. that he shal make it &c. though that she cannot haue estate in the tayle, as she myght haue had, yf the gyft in the tayle had be made to the husband, and to her, in the life of her husband &c.

¶ Also in thys case if the husband & the wife haue issue, and dye before the gyft in the tayle made vnto hym &c. than ought the feoffee to make estate to the issue and to the heyres of the father, and mother engendred, & for defaut of such issue &c. the remaynder to the right heyres of the husband &c. And the same lawe is in other cases semblable. And if suche a feoffour will not make such estate when he is reasonably required by them that ought to have estate

estate by force of the condition &c. Then may the feoffour and hys heyres enter &c.

¶Also if a feoffement be made vpon condicion that the feoffee shall enfeoffe manye men, to haue and to holde, to them and to theyr heyres for euer, and all they that ought to haue estate, dye before any estate made vnto them, then ought the feoffee to make the estate to the heyres of hym that surviue of the to haue and to hold to hym, and the heyres of hym that surviued &c.

¶Also if a feoffement be made vpon condicion to enfeoffe another, or to geue in the tayle to another &c. if the feoffee before the performing of the condicion enfeoffe a straunge person, or make a lease for tearme of lyfe, then may the feoffour or hys heyres entre &c. for thys, that he hath disabled hymselfe to performe the condicion, in so much that he made estate to another & cetera. In such maner it is, yf the feoffee before the condicion performed, set the same land to a straunger for terme of yeres. In this case the feoffour or hys heyres may entre & cetera. for thys that the feoffe hath disabled hymselfe to make estate of the tenementes accordyng to that, that was in the tenemẽtee when estate therof was made vnto him, for if he will make estate according to the condiciõ &c. thẽ may the feoffe for terme of yeres, entre & put out hym to whõ the estate is made &c. & to occupy this duryng his term. Thy many haue sayd, that if such a feoffement

be made to a man sole vpon thesame condicion, and before that he hath performed the condicion he taketh a wyfe, then the feoffour or hys heyre may incontinent enter, for thys that if he hath made estate according to the condicion, and after dyed, his wyfe shalbe endowed and may recouer her dower, by a writte of dower &c. And so by takyng of a wyfe, the tenementes be put in another plyte then they wer at the tyme of the feoffment vpon condicion, for thys that no such woman was dowable nor should be endowed by the lawe &c. In thelame maner it is, if the feoffour charge the land by his dede of rent charge before the parfourming of the condicion, or be bound in a statute staple, or statute marchaunt, that in such cases the feoffour and his heyres may entre. Causa qua supra. For whosoeuer commeth to the tenementes by the feoffment of the feffee, then the tenementes must be lyable and be put in execution by force of the statute aforelayd. But when the feoffour or his heyres for the cases aforelaid. haue entred so as they ought as it semeth &c. When all such thynges that before such entre may trouble or encombre the tenementes so geuen vpon condicion, as touchyng thelame tenementes be vtterly defeted &c.

¶ Also if a man make a dede of feoffement to another, and in the dede is no condicion &c. And when the feoffour will make to hym liuere of seisin by force of thesame dede, he may

heth

heth tiuere of seisyn vpon certayn condicions
&c. In this case nothyng of the tenementes
alleth by the dede, for thys that the condicio
is not comprysed in the dede, and the feoffe-
ment is of such force, as if no suche dede had
be made therof &c.

Also if a feoffement be made vpon such con
dicion, that the feoffee shal alien the land to a
man, thys condicion is voyde, for thys, that
whan a man is infeoffed in landes or tene-
mentes, he hath power to alien them to some
parson by the law. For if such condicio shold
be good, than the condicion putteth hym out
of all the power that the lawe geueth, which
should be agaynst reason, and for thys, suche
condicion is voyde. But if the condicion bee
such, that the feoffee shal not alyen to one such
naming hys name, or to any of hys heyres or
hys yssues &c. or such other ipse, the which co-
dicions taketh not away all the power of a-
lienacion of the feoffee &c. than such condicio
is good.

Also if tenemētes be geuen in the tayle, vpō
such condicion that the tenaunt in the tayle,
nor his heyres &c. shall not alyen in fee, nor in
tayle, nor for term of others ipse, but for their
own tymes. &c. suche alyenacion and condi-
cion is good. And the cause is for thys that
whan he maketh such alienacion and discon-
tinuance, he doeth contrary to the entent for
whiche the statute of westminster the seconde
was made, by whiche estatute, the estates in

the

the tayle be ordayned for it is prooued by the
wordes compryſed in the ſame eſtatute, that
the entēt of the making the ſame eſtatute was
ꝑ the will of the donour in ſuch caſes ſhould
be obſerued. And where the tenant in the tayle, ma-
keth ſuch diſcontinuance, he doth the contra-
ry to that &c. And alſo in eſtates in the tayle
of any tenemēntz whan the reuerciō of the fee
ſiple is in another ꝑſon whā ſuch diſcontinu-
ance is made, then the fee ſumple in the reuer-
cion, or the fee ſymple in the remaynder is dis-
continued, and for to put out that the tenant
in the taile ſhal do no ſuch thing againſt right
ſuch condiciō is good, as it is afore layd &c.

¶ Alſo a man may geue land in the tayle vp-
pon ſuch condicion, that if the tenaunt in
tayle or hys heyres alien in fee, or in tayle,
for terme of an others lyfe &c. And alſo
if al the iſſues comming of the tenaunt in
tayle, be dead without iſſue, that then it ſhal
leful to the donour, & to his heyres, to ent-
And by ſuch way the right of ꝯ tayle may
ſaued aft ſuch diſcōtinuance to the iſſue in
tayle if ther be any, ſo ꝯ by way of entre
donour or of his heires the tayle ſhall not
defeted by ſuch condiē, & yet if the tenant
tayle in thys caſe, or his heires make any
continuance &c. he in the reuerciō or his
res after this ꝯ the tayle is determined for
faute of yſſue &c may enter into the lande
force of the ſame condicion. and ſhall not
drieuen to ſue a wrytte of Formedon in
reuer

cion.

¶ Also yf a man may not plede in any accion that estate was made in fee, in the taple, or for terme of life vpon condicion, but if he vouch a record therof, or shew a writing vnder seale proving the same condicio. for it is a common rudicion & learning, ỹ a man by pleding shal not defete any estate of frankstenemēt by force of any such condicio, but if he shew the proofe of such condicio in writyng &c. except it be in some especial cause, but of chatels reals as of a lease made for terme of yeres, or of grantes of woodes made by wardens in chiualry, & of such other. &c. A man may plede that such gyftes or grantes wer made vpon condicion &c. without shewing of any writing of condicion and in the same maner a man may dooe of gyftes and grantes of chatels parsonels and of contractes parsonels &c.

¶ Also though that a manne in some accyon maye not plede an accion that toucheth and concerneth frankе tenement wythoute shewynge of wrytinge therof, as it is afore-sayde, yet a manne maye bee holpen vpon suche condycyon by the verdyte of twelue menne taken at large in Assyse of nouell dyssesyn, or in some other accion where the iustices wyll take the verdite of the twelue iurours at large. As put the case that a man seyed of certayn lande in fee, letteth the same for term of life, without dede vpon condicio yeeld to the lessour a certayne rent, and for

defaute

defaute of payement a reentre. &c. by force of which, the leſſour is ſeyſed as of franketenement and after the rent is behynd, by which the leſſour entreth into the lande, and after the leſſe arrayneth an aſſyſe of Nouel diſſeiſyn of the land agaynſt the leſſour the whiche pleadeth that he doth no wrong, ne no diſſeiſyn, and vpon thys the aſſyſe is taken.

¶ In thys caſe the recognitours of the aſſyſe may ſay and yeld to the iuſtices theyr verdit at large vpon all the matter, as to ſaye that the defendaunt was ſeyſed, and ſo ſeyſed, let the ſame land to the playntif for terme of his life, to yeld to the leſſour ſuch an annuel rent payable at ſuch a feaſt and vpon ſuch condicion if the rent be behynd at any ſuche feaſt that it ought to be payde, that then it ſhalbe leſuful to the leſſour to entre &c. by force of which leaſe the playntif was ſeyſed in hys demeſne, as of frank tenement, and after the tente was behynd at ſuch a feſt in ſuch a yere &c. for which the leſſour entred into the land vpon the poſſeſſion of the leaſe, and payeth the diſtreſſe of the iuſtices if thys be a diſſeyſin done to the playntif or not. And than for thys, that it appeareth to the iuſtices, that thys was no diſſeiſyn doone vnto the playntif. In ſo much that the entree of the leſſour was lawful vnto hym, the iuſtices ought to geue iudgement, that the playntif ſhall take nothyng by hys writte of aſſyſe. And ſo in ſuch caſe the leſſour ſhall be holpen, and yet no writyng was neuer made

of the

ꝺthe condicion, for as well as the iurrours maye haue knowelege of the condicion that was declared and reherased vpon the leſſee. In the ſame maner is of feoffement in fee, or in gyfte in the tayle vpon condicion, though neuer wryting wer made therof ꝛc. And as it is ſayd of a verdite at large in aſſiſe ꝛc.

¶ In thys ſame maner it is of a writte of entre founded vpon diſſeiſyn, and in all other actions where the iuſtices will take a verdite at large there where the verdite at large maketh the nature of the matter put in the iſſue.

¶ Alſo in ſuche where the enqueſt may ſaye theyr verdite at large, if they will take vpon them the knowelege of the lawe vpon the matter, they may ſay theyr verdit general as it is put in theyr charge, as in the caſe afore=ſayd they may well ſay that the leſſour diſſeiſed not the leſſee if they wyll ꝛc.

¶ Alſo in the ſame caſe, yf the caſe wer ſuche, that after thys that the leſſour had entred for forfeture of payment ꝛc. that the leſſee had entred vpon the leſſour, and hym diſſeiſed. In thys caſe if the leſſour arrayneth an aſſyſe a=gaynſt the leſſee, the leſſee may barre hym of hys aſſyſe, for he maye plede agaynſte hym in barre, how the leſſour that is playntyfe made a leaſe to the defendant for terme of lyfe, ſa=ynge the reuercion of the playntif, the which is good plee in barre, into much ỹ he knowe=ledgeth the reuercion to be to the playntife, & in thys caſe hath no matter to helpe hym, but

the con

the condiction made vpō the leasse and that he may not pledge, for that he hath no writyng, and in so muche that he may not aunswere to the bar, he shalbe barred. And so in thys case ye may see that a man is seised & he shal haue no allyse. And yet if the lessee be playntif, & the lessour defendant, he shal barre the lesse by verdit of the allyse. But in thys case where the lessee is defendaunt, if he will not pleade the sayd plee in barre, but pleade no wrong nor dysseisyn that the lessour shall recouer by allyse &c. Causa qua supra.

¶ Also because such condicions be most commonly put & specified in dedes endented, some litle thing shalbe sayd here to the intent of indentures & of a dede poll conteining condicions. And it is to wete ỹ if the indēture be bypertite or tripartie or quatriperte, al the parties and the indenture be but one dede in the law, & euery partie of the indēture is of himself of as great force & effect, as al the parties together. And the making of indētures is in two maners. One is to make thē in the thirdē parson, another maner is to make thē in the fyrst parson. The making in the third parson as in such fourme. Thys indēture made betwene A. of. B. of the one part, & C. of. D. of the other part. witnesseth that the forsayd A. of. B. hath geuen & graūted & by this present dede indented, hath confyrmed to the forsayd C. of D. such lād to haue &c. vpon the condicion &c. In witnes whereof, the parties be forsayd inter-

interchãgeably haue put to their seales, or els thus. In witnes wherof, to one pte of thys indẽture remayning w̃ the sayde C. of D. the foresayd A. of B. hath put to his seale, & to ꝯ other pt of the sayd indẽture remaing with the sayd A. of B. the said C. of D. hath put to his seale geue &c. Such indẽtures is called indẽture made in ꝑ third ꝑson for this that the wordes be in the third ꝑson & such forme the indenture is the more sure making, for this ꝑ it is more cõmonly vsed, the making of indentures in the fyrst parson is in such forme.

¶ To al true christen people to whom thys ꝑsent writing indẽted shal come A. of B. greting in our lord euerlasting, knowe ye me to haue geuẽ & graũted, & by this my ꝑsẽt dede indented, to haue confyrmed to C. of D. suche land &c. Or els thus, know al mẽ that be ꝑsent, & thẽ that be to cõe that I A. of B. haue geuen & granted & by thys my ꝑsent dede indẽted haue cõfyrmed to C. of D. such land &c. to haue &c. vpon the condicion folowing. In wytnes wherof, as wel I the sayd A. of B. as the foresayd C. of D. to these indentures interchangeably haue put to our seales, or els thus. In witnes wherof to one part of thys indenture I haue put to my seale, and to the other part of the same indenture the foresayde C. of D. hath put to hys seale. &c.

And it semeth that such an indenture made in the fyrst parsone, is as good in the law as the indenture made in the thyrd parsone,

when

when both parties haue therto put theyr seales, for in the indenture made in the thyrde parsone or in the fyrst parsone, if mencyon be made that the grauntour hath sette hys seale onely, and not the grauntee, then is the indenture onely the dede of the grauntoure. But where a mencion is made that the grauntour hath set hys seale to the indenture &c. then is the indenture as well the dede of the grauntour as the dede of the grauntee, and thus is the dede of both, and also euery party of the indenture is the dede of both parties in lyke case. &c.

¶ Also yf estate be made by indenture to a man for terme of hys lyfe, the remaynder to an other in fee vpon condicions &c. and if the tenant for terme of lyfe, hath set hys seale to the partie of the indenture, and after dieth and he in the remaynder &c. entreth by force of the remaynder. In thys case he is holden to performe all the condicions comprysed within the indenture as the tenant for terme of hys lyfe ought to dooe in hys lyfe and yet he in the remaynder neuer ceased any parcel of the indenture but the cause is that in so much that he entreth and agreeth to haue the land by force of the indenture he is holden to parfourme the condicion within the indenture if he will haue the lande &c.

¶ Also if a feoffement be made by dede vpon condicion &c. And for thys that the condicion is not performed, the feffour entre

and happeth the possession of the dede pollet the lesse hyng an accion of that enter against the feoffour it hath bene questioned yf the lessour may plede the condicion. &c. by the deed poll agaynst the feoffe and some haue sayde, nay, in so muche that it semeth vnto thē that a deed pol, and the property of the same dede appertayneth to hym to whom the dede is made and not to hym that made the dede. And in so much that suche a dede appertaineth not to the feoffour it semeth to them that he maye not plede thys dede. &c. And other haue sayde the contrary and haue shewed diuers causes. One is yf the case be such that in the actiō betwene them yf the feoffe plede the same dede, and shewe this to the court. In this case in so much that the dede is in the court the feoffor may shew to the court how in the dede by diuers condicions to be parformed of the parte of the feoffe, and for this that they be not parformed he entred &c. and therto he shalbe receiued by the same reason whan the feoffor hath the dede in hand and sheweth it to the court he shalbe wel receiued to plede of this. &c. And namely whan the feoffor is preuy to the dede, for he ought to be preuy to the dede, whan he made the dede.

¶ Also yf twoo menne make or doo a Trespasse to another, the whiche releaseth to one of them by hys dede, all actions Parsonels. &c. Notwithstandyng he sueth an accion of Trespas agaynst the other, the defendaunt

may well ſhewe that the Treſpas was dont by hym and another his felow, and that the plaintif by the dede that he ſheweth for the releaſe to his felowe, all accions parſonels and yet ſuch dede appertepneth to his felowe and not vnto hym, but for this that he maye haue aduauntage by the dede, if he may ſhewe the dede to the court he may well plede ther fore by theſame reaſon in the other caſe whā the feoffour ought to haue aduauntage by the condicion compriſed with the deed poll.

¶ Alſo yf the feoffe gaue or graunted the deed poll to the feoffor, ſuche graunt ſhall be good, and than the dede, and the properte of the dede, appertayneth to the feoffour. And whan the feoffour hath the dede in hand, and pledeth it to the court, it ſhall bee the more vnderſtand that he came to the dede by a law full meane than by a forcions meane and ſo it ſemeth that they maye well plede ſuch a deed poll, that comprehendeth condicion. ꝛc. yf he haue the dede in hande ꝛc. Ideo ſemper quere dubiſs, quia per raciones peruenitur ad legittimam rationem.

¶ Eſtates that menne haue vpon condicion in the law be ſuche eſtates that haue a condicion in the law annexed to them, though it be not ſpecified in writing, ſo as a man graunte by hys dede in another the offyce of a parkeſhyppe of a parke to haue and to occuppe the ſame offyce for terme of his lyfe, the eſtate that he hath in the offyce, is vpon condicion

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in the lawe, that is to saye, that the parker, well and truelye shall kepe the parke, and do thys that to hys office appertayneth to dooe, or otherwyse that it shall bee lawfull to the grauntour and to hys heyres to put hym out, and to graunt that to another yf he wyll. &c. And suche condicion as is vnderstande by the lawe to bee annexed to some thing is as stronge as yf the condicion were set or put in writing. In the same maner it is of grauntes of offices of stewardes, constables, bedles, bailyffes, and other officers, but yf suche office bee graunted to a man to haue and to occupy by hym or by his deputie, than if the office be occupped by hym or by his deputye as it ought by the lawe to be occupped, this suffiseth for hym, or els the grauntour or his heires may put hym out as it is afore sayde.

Also estates of landes or tenementes may be vpon condicion in the lawe, though yt vpon the estate made, there was no rehersall made of the condicions, as put the case that a lese be made to the husbād & his wife, to haue & to hold to thē during the couerture betwen thē in this case they haue estate for terme of their two liues vpon condicion in the law, yt is to say yf one of them dye, or if diuorce bee made betwene thē. yt than it shalbe lawful to the lesser & his heires to ēter. &c. & that they haue estate for terme of their. ii. liues it is proued thus. Euery man that hath estate or franketenement in my lādes or tenemētes, eyther he hath estate

In fee, or in fee taple, or for terme of lyfe or for terme of anothers lyfe, and by such leafe, they haue franketenement. But thei haue not by that graunt fe nor taple, nor for terme of anothers lyfe. Ergo they haue estate for terme of theyr two lyues, but this is vpon condicion in the lawe in forme aforesaide. And in thys case yf they make waft the lessour shall haue agaynst them a writ of waft, supposing by his writ. Quod tenent ad terminum vite. &c. but in his plee, he shall declare howe and in what maner the leafe was made, in thesame maner it is yf an abbot make a leafe to a mā to haue and to holde durynge the tyme that the leassor is abbot. In thys case the lesse hath estate for terme of hys owne lyfe, but this is vpon condicion in law that is to say that yf the abbot dye, or resygne to be deposed, it shalbe lawfull to his successours to enter. &c. Also a mā may see in the boke of assise. Anno. xxxviii. E. iii. plee of assyse in this forme that ensueth assise of nouell disseisyn was sometyme brought gainst one. A. that pleded to the assyse, & was found by verdyt that the ancestor of the plaintyf deuised the tenementes to be solde by the defendant that was his executor to make distribucion of the money for hys soule, & it was found that a man after the death of the testatour rendered hym certayn sume of money for the tenementes but not to the value and that the executour after heilde the tenementes in his owne hande by two yere to the intent to

haue solde the tenementes more derer to sum other and it was founde that he had all thys whyle after taken the profytes of the tenementes to his owne vse, without any thyng doyng for the soule of the dead. Wombzay the executour in such case is holden by the lawe to make the sale as soone as he may after the death of the testatour and it is founde that he refused to make the sale and so the defaut was in hym, and also by force of the deuyse he was holden to haue put all the profytes of the sayd tenementes to the deathes vse, and it is found that he hath taken them to his owne vse, and so another defaut is in hym wherfore it was iudged that the playntyf should recouer. &c. And so it appereth by the said iudgement that by force of the sayd deuyse the executour had none estate nor power in the tenementes but vpon condicion in the law. &c. And in such cases it nedeth not to haue shewed any dede reherying the condicions. &c. Ex paucis dictis intendere plurima possis. More shalbe sayde of condicions in the chapiter of discentes that taketh away enter and in the chapiter of releses and in the chapiter of discontinuaunce.

Dyscentes. Cap. bi.

Discentes that take away entres be in two maners that is to say where the dyscent is fee or in fee tayle. Discent in fee that taketh away enter is if a man seased of certain landes & tenementes is disseased and the disseysour

hath yssue and dyeth of suche estate. But now the tenementes dyscend to the yssue of the dissesour by course of the lawe as heyre vnto hym.

And for this that the lawe putteth the landes or tenementes vpon the yssue of the dissesour that by force of the discent, so the yssue commeth to the tenementes by course of the law and not by his owne dede the enter of the dissesi is taken away and is therof put to his wryt of enter vpon dissesyn against the heyre of the dissesour to recouer the lande.

Dyscent in the tayle that taketh away enter is yf a man be dissesed and the dissesour geueth the same lande to another in the tayle, and the tenaunt in the tayle hath yssue and dyeth seased of such estate and the yssue entre in this case the enter of the dyssesi, is take away, and he is put to sue, agaynste the yssue of the tenaunt in the tayl a wryte of enter vpon dissesin .&c.

And note well that in such dyscentz that take away enters it behoueth that a mā dye seased in his demesne, as in fee tayle for lyng seased for terme of lyfe or for terme of anothers lyfe shall neuer take awaye the enter. &c.

Also a dyscent of reuercion or of remayn der shal neuer take away enter. &c. so that such cases that take away entrees by force of discentes it behoueth that he ỹ dieth seased have fee & frankte nemt at the tyme of hys dying

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eis such dyscent taketh not away enter.

Also as it is sayd of discentes that discend to the issue of hym that dyeth sealed.&c. the same law is wher thei haue none issue, but ȳ tenementes dyscende to the brother or to the sister or to the vncle, or to some other cosin of his that dyeth sealed.&c.

Also if there be lord and tenant and the tenant be disseased, and the disseasour alieneth to another in fe & the alien dyeth without heire, & the lord entreth as in his eschete. In thys case the disseysi maye enter vpon the lorde for this that the lord commeth not to the land by dyscent but by eschete.

Also if a man sealed of certayn lande in fee or in fe taile vpon condicion to yeld certayne rent or vpō other condic̄ though that such tenant sealed in fe or in fe taile die sealed, yet yf the condic̄ be broke in their life or after theyr deth.&c. this taketh not away the enter of the feoffor, nor of the donor or of theyr heyres for this that the tenancy is charged with the condicion & the estate of the tenancy is condicionel in whole handes so euer the tenācye shall come.&c.

Also if such a tenāt vpon condic̄ be disseased & the disseasor die therof sealed, & the lād descendeth to the heir of the disseasor, now the ent̄ of the tenant vpō condic̄ that was disseased, is take away but if the condic̄ be broke.&c. thā may the feoffor or the donor that made the estate or their heires entre.&c. causa qua supra.

¶ Alſo yf a diſſeyſour dye ſealed, & his heire enter. &c. the which endoweth the wyfe of the diſſeaſour of the thyrde part of the tenemēts in this caſe as to the thyrde part that is aſſigned to the wyfe in dower incontinent anone after that the wyfe entreth and hath the poſſeſſion of the ſame thyrde part, the diſſeiſy may lawfully enter vpon the poſſeſſion of the wife in the ſame thyrde part. And the cauſe is for this that whan the wyfe hath her dower, ſhe ſhall bee adiudged rather immediately by her huſband and not by the heyre, and ſo as to the frankētenement of the ſame thyrd part, the diſcent is defeted, and ſo ye may ſee howe before the dowement the diſſeiſi myght not enter any part. &c. and after the dowement he may enter vpon the wyfe, and yet he may not enter vpon the other two partyes yᵗ the heyre of the diſſeaſour hath by diſcent. &c.

¶ Alſo yf a woman be ſealed of lande in fee, wherof I haue ryght and tytle to entre, the woman take an huſband and haue iſſue betwene them, and after the wife dyeth ſeaſed, and after that the huſband dyeth, and the iſſue entreth. &c. In this caſe I may enter vpō the poſſeſſion of the iſſue. for this that the iſſue cometh not to the tenementes immedyatly by diſcent after the death of his mother.

¶ Alſo yf a diſſeyſour enfeoffe two ſonnes and the father entreth and dieth of ſuch eſtate ſealed. by whiche the tenementes deſcende to the diſſeaſour, as to the ſonne and heyre.

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In this case the disseisi may well enter vpon the dysseasour notwithstandyng the discent, for this that as to the dysseasyn the dysseasour shall be adiudged in but as the disseasour, not withstandyng the discent.

¶ Also yf a man seased of certayn landes in his demeane as of fee, and hath issue .ii. sones and dyeth, and the yonger sonne entreth by abatement in the land the which hath issue, and of this dyeth seased. and the tenementes discende to the issue, and the issue entreth into the land, in this case, the elder sonne or his heires may enter by the lawe vpon the issue of the yonger sonne, notwithstandyng the discente, for thys that whan the yonger sonne abated in the lande after the death of hys father before any enter of the elder, the law intedeth that he entred in the clennyng as heyre vnto hys father, and forthys that the elder brother claymeth by the same tytle, that is to saye, as heyre vnto hys father. he and his heyres, may enter vpon the issue of the yonger brother notwithstandyng the discent. &c. for thys yͤ they clayme by one selfe tytle and in the same maner it shall bee yͤ there bee manye discentes from one issue of the yonger sonne. &c. But in suche case yͤ the father were seased of certayne landes in fee, and hath issue .ii. sonnes and dyeth, and the elder sonne entreth and is seased et cetera. And after the younger brother dysseaseth hym, by whyche dysseysyn he is seased of fee, and hath issue and of suche

estate

eſtate dyeth ſeaſed, thā the elder brother may not enter, but is put to hys writ of enter vpō diſſeaſin for to recouer the lād. And the cauſe is for this, that the younger brother commeth to the tenementes by a wronge diſceiſin made vnto his elder brother. And for that wronge, the law may not entend that he claim as heir to his father no more than a ſtraunge parſon that had diſſeaſed the elder brother that neuer had any title. ꝛc. And ſo may ye ſe the diuerſitie where the ponger brother entreth after the death of his father, before any entry made by the elder brother in ſuch caſe. ꝛc. And when the elder brother entreth after the death of his father, and is diſſeaſed by the ponger brother. ꝛc. In the ſame maner yf a man ſeaſed of certain land in fe hath iſſue two doughters, & dyeth and the elder doughter entreth in the lād claymyng all the lande to her and therof only taketh the profites and hath iſſue and dyeth ſeaſed by which her iſſue entreth whiche yſſue hath iſſue and dyeth ſeaſed and the ſeconde yſſue entreth. ꝛc. Et ſic vltra, yet the younger doughter and her iſſue as to the halfe may enter vpon euery yſſue of the elder doughter, notwithſtandyng ſuche dyſcent for this that they clayme by one ſeiſe tytle. ꝛc. But in ſuch caſe yf both two ſiſters come into the lande to enter after the death of theyr father, and thereof were ſeaſed and after the elder ſyſter therof diſſeaſed, the younger ſyſter of that, that to her belongeth, and thereof is

ſeaſed

seised in fee, and hath issue, and of such estate dyeth seased, by whiche the tenementes discende to the yssue of the elder syster than the ponger syster or her heyres maye not ēter. ꝛc. causa qua supra.

¶ Also yf a manne seased of certaine lande hath yssue two sonnes, and the elder brother is bastarde, and the younger brother mulier, & the father dyeth and the bastard entreth and claymeth as heyre vnto hys father, and occupyeth the land all hys lyfe without any entre made vpon hym by the mulier and the bastarde hath yssue and dyeth of such estate seased in fee. and the lande descendeth to his issue and hys issue entreth. ꝛc. in this case the mulier is without remedy for he may not ēt nor he shall haue no accion for to recouer the lād for this that it is an auncyent law in such case vsed, but it hath bene an opynion of some mē that shall bee vnderstande where the father hath a sonne a bastard by a woman and after he weddeth the same woman and after the spousayle he hath yssue by the same woman a sonne or a daughter mulier, and the father dyeth et cetera. If such a bastarde enter et cetera. And hath issue, and dyeth seased. ꝛc Than shall the yssue of such a bastarde haue the lande clerely to hym as it is afore sayde. ꝛc And not anye other bastarde borne of the mother that was not espoused to his father, and this is a good and reasonable opynyon, In such a bastarde borne before the espousels

espousels solempnysed betwene hys father
hys mother by the lawe of holy churche is m
lyer, though that by the lawe of the lande, he
is a bastarde borne, and so he hath colour o
enter as heyre to his father, for thys that he is
by one lawe mulier, that is to say, by the law
of holy churche. But otherwyse it is of a b
starde that hath no maner of colour to ent
as heyre, in so muche that he maye not in n
lawe be sayd mulyer. &c. for suche a bastarde
sayde. Quasi nullius filius. But in suche ca
afore sayde where the bastard entreth after th
death of his father, and the mulier putteth h
out, and after the bastarde dysseaseth the mu
er, and hath issue, and dieth seased, and the
entreth, then the mulier may haue a writte o
entre vpon dysseisin against the yssue of the b
starde, and recouer the lande. &c. And so may
pe see the diuersyte where suche a bastarde co
tynueth hys possession all hys tyme without a
ny interruption, and where the mulier entr
and interrupteth the possession of suche a ba
starde.

¶ Also yf a chylde within age haue tyte
cause to enter into any landes or tenemtz by
another yͭ is seased in fe or in fe tail of yͤ lan
lãdes & tenemtz, if such a mã yͭ is so seased by
of such estate, so seased & the tenemtz discen
to his issue during the time yͭ the child is wit
in age. such discent shal not tol the entre of
chyld but he may enter vpon the issue yͭ is in
by discent. &c. for this that no laches shall be
adiudged

iudged in a chylde wythin age in suche
e. &c.

Also yf the husbande and hys wyfe, as
ryght of the wyfe haue tytle and ryght to
ter in the tenementes that another hath in
e or in fee tayle, and such a tenaunt dieth se-
d. &c. In such case the enter of the husband
taken away vpon the heyre that is by discēt
but yf the husbande dye, then the wyfe maye
well enter vpon the issue by discent, for thys
the laches of the housebande shall not
me to the wyfe and to her heyre in prēiudic
in damage, in such case but that the wyfe
her heyres may well enter, where suche
scent is during the couuerture. &c.

Also yf a man that is not of whole mynde
that is to say in latin. Qui non est compos mē
s, hath cause to enter in any such tenemētes
such discent ought to be had in hys yse durīg the
me ꝑ he was out of his mynde, and after die
s heyres may wel enter vpon hym that is
by discent. And in this maye ye see a case ꝑ
e heyre may enter, and yet hys ancestor that
d the same tytle may not enter, for he ꝑ was
t of his mynde at the tyme of suche discent
e wyl enter after such a dyscent, yf accion
d this be sued against hī, he hath nothyng for
to plede or to help hī. but say ꝑ he was out
mynd at the time of such discēt. &c. And he
ll not be receiued to say this, for this that no
eof ful age shalbe receiued in any plee by the
ute to dilait or dissable his own ꝑson. But the

heyre

heyre may wel dissable the parson of his ances-
cestor for aduantage of the heyre in such case
for this that no laches may be adudged by the
law in hym that hath no discrecio in such case.
And if such a man out of his minde make a fe-
offement.&c.he may not enter ne haue a writ
called.Dum non fuit compos mentis.&c.casu
ta qua supra,But after hys death, his heyre
may wel enter or haue thesame wryt.Dum
non fuit compos mentis at his election.&c.

¶ Also yf I be disseased by a chyld within age
alyeneth to another in fee,and the alien dis-
seased, and the tenementes descende to hys
heyre and the chylde beyng within age,my
enter is taken away.But yf the childe with-
in age enter vpon the heyre that is in by dis-
cent as he well may,for thys that the disseis
was duryng hys nonage,than I may wel en-
ter vpon the disseasy,for thys that by hys en-
tre he hath defeted and adnulled the disseis
And in the same maner it is where I am dis-
seised,and the disseasour maketh a feoffement
fee vpon condicion.&c. And the feoffe dyeth
suche estate seased.&c. I maye not enter by
the heyre of the feoffe.But yf the condicion
broken so that by suche cause the feoffour en-
treth vpon the heyre,now may I wel enter
for this that when the feoffour or hys heyre
entre for the condicion broken,the disseisee
vtterly defeted.

¶ Also yf I be disseased,and the disseisee
hath yssue and entreth into religion,by fyne

ꝑ whyche the landes deſcendeth to his ſſiue,
thys caſe J may well entre vpon the ſſiue,
nd yet there was a diſcent. But for this that
che dyſcent commeth to the ſſiue by the fa-
ers dede, that is to ſaye, for thys that he en
ed into religion. ꝛc. and the dyſcent cometh
hym by the dede of God, that is to ſaye by
ath. ꝛc. myne entre is congeable, and law-
ll, for ꝑ J arrayne aſſyſe of Nouel diſſeyſyn
aynſte my dyſſeiſour, though that he after
ter into religion, thys ſhall not abate my
ytte. But my wryt, thys not withſtanding
ll abyde in hys force and ſtrength, and my
couere agaynſte hym ſhall bee good by the
me reaſon, the diſcent that came to his ſſiue
hys owne dede may not put me fro myne
ntre. ꝛc.

Alſo ꝑ J lette to a manne certain landes
terme of twenty yeres, and another diſſea-
th me, and putteth out the terme, and dieth
ed, and the tenementes diſcend vpon hym
yre, J may not enter, and yet the leſſe for
me of yeres may well enter for thys that
hys entre he putteth not out the heyre that
in by dyſcent fro the franktenemente that
to hym deſcended. But onely to haue tene-
mentes for terme of yeres, that whyche is no
ſuyng of the franktenement of the heyre ꝑ
in by diſcent. But otherwyſe it is where
tenant to terme of life, is diſſeaſed. ꝛc. cau-
ma ſupra. ꝛc.

Alſo it is ſayde that ꝑ a manne ſeaſed

of

of tenementes in fee by occupacion in time
warre, and dyeth therof seased in time of
and the tenementes descend to hys heyr, s
dyscent putteth out no manne of his ent
And of this a man may se a ple in a writt
apel. In. vii. E. ii.

Also no dying seased where all the ten
mentes commeth to another by succession
take away the entre of any parson. &c. of
prelates, abbots, pryours, deanes, or parso
of churches &c. though that there were tw
tie successions, this putteth no man from
entre. &c. More shalbe sayd of discentes in
chapiter of continual clayme. &c.

Contynuall clayme. Cap. vii.

Continuall clayme is, where a manne h
tyght, and tytle to enter in anye landes
tenementes whereof another is seased in
in fee tayle, yf he that hath tytle to enter
contynuall clayme to the landes, and te
mentes before the dying seased of him. that
deth the tenementes. Than though
a tenaunt dye thereof seased and the la
and tenementes descende to hys heyre,
may he that hath made suche clayme o
heyres enter into the landes and tenem
descended, because of the contynual cla
made. Notwythstandyng suche dyscent
in case a man bee dysseased, and the dys
maketh contynuall clayme to the tenem
in

in the ipfe of the diſſeiſour though the diſſeyſour dye ſeyſed in fee, and the land diſcendeth vnto hys heyres, yet may the diſſeiſy entre vpon the poſſeſſion of the heyre, notwithſtanding ſuch diſcente.

¶ In the ſame maner it is, if tenant for terme of ipfe alien in fee, he in the reuercion, or he in the remaindre may entre vpō the alien. And if ſuch alyen ſeyſed of ſuch eſtate without continual clayme made to the tenementes before the dying ſeyſed of the alyene and the tenementes becauſe of the dying ſeyſed of the alyen diſcend vnto the heyre of the alyen. Thō may not he in the reuercion, nor he in the remaindre entre. But if he in the reuercion, or he in the remaindre that hath cauſe to entre vpon the alyen made continuall clayme to the tenementes before the dying ſeyſed of ỹ alyen, then ſuch a manne may entre after the death of the alyen as well as he might in his life. &c.

¶ Alſo yf landes be lette vnto a man for term of hys ipfe, the remaindre vnto another for terme of ipfe, the remaindre vnto the thyrde in fee, yf the tenaunt for terme of ipfe alyen to another in fee, and he in the remaindre for terme of ipfe maketh continuall clayme vnto the land before the dying ſeyſed of the alyen, and after the alyen dyeth ſeyſed. &c. and after he in the remaindre for terme of ipfe dyeth before any entre made by hym.

¶ In thys caſe he in the remaindre in fee

may entre vpon the heyre of the alyene, be-
cause of continuall clayme made by him that
made the remaynder for terme of lyfe, for this
that such ryght that he hath to enter shall goe
and remayne to hym in the remaynder after
hym, in so muche that he in the remaynder in
fee, maye not enter vpon the alyene in fe-
durynge the lyfe of hym in the remaynder
for terme of lyfe, and because he myght not
make continuall clayme. But when he hadde
lyfe to enter. But it is to see to thee my child
howe & in what maner such continuall clayme
shalbe made, and to learne thys. Whyche thyn-
ges there be to vnderstand. ¶ The fyrst thyng
is yf a manne haue cause to enter in any lan-
des or tenementes in dyuers townes with-
in one shyre yf he entre in any parcell of the
landes or tenementes that be in one towne
the name of the landes or tenementes that
been in one towne to whiche he hath ryght to
enter within all the townes in the same shyre
by such entre he hath as good possession and
seysyn of such landes or tenementes where
he hath tytle to entre as yf he had entred in-
to euery parcel, and thys semeth great reason
for yf a manne will enfeffe another without
dede of certayn landes or tenementes that he
hath in many townes within one shyre, and
he will deliuer seysyn to the feoffee of par-
cell of the tenementes within one towne in
the name of all the landes & tenementes that
he hath in the same towne, and in all the o-
thers

ther townes &c. all the sayd tenementes &c. shall passe by force of the sayd liuerey of seysin to hym to whome suche feoffement in such maner is made. And yet he to whom such liuerey of seysin is made, hath no ryghte to all the landes and tenementes in all the townes but because of the liuerey of seysyn made of parcel of the landes or tenemētes in one town A multo fortiori. It semeth good reason, that whan a man hath title to entre into landes or tenementes in diuers townes within one shyre, before any entre by him made, ỳ by the entre of him made in parcel of the tenemētes in one town in the name of al the landes & tenemēts to the whiche he hath title to entre within the same shyre, thys is a seysyn of all in hym, & by such entre he hath possessiō & seisin in dede, as yf he had entred into euery parcel &c.

The second is to vnderstand, that if a man haue title to entre into any landes or tenemēts, if he dare not entre in the same landes or tenemēts nor in any parcel therof for dout of beyng, or for doute of maymyng, or for doute of both, yf he goe & approch as nygh the tenemēts as he dare, for such doute, & clayme by wordes the tenementes to be hys incontinent by such clayme, he hath a possessyō & seysyn in the tenementes as well as yf he had entred in dede thoughe he hadde neuer possessyon or seysyn of the same landes or tenementes, before the sayde clayme. And that the lawe is such it is well prooued by a plee of an Assyse in the

booke of assyse. Anno. xxx viii. E. iii. The tenure of which ensueth in thys fourme.

¶ In the countie of Dorset before the same Justices it was founden by verdit of Assyse, that the pleyntif which had ryght by dyscent of heritage to haue the tenementes putte in playnt at the tyme of the death of hys auncestre which was dwelling in the town where the tenementes wer, and by woord claymeth the tenementes among hys neyghbours, but for doubt of death he durst not approche vnto the tenementes, but bryngeth assyse, and vpon the matter founde, it was awarded that he should recouer.

¶ The thyrd thyng is to vnderstande within what tyme the clayme that is sayd continual clayme shal serue, and helpe hym that maketh the clayme and hys heyre. And as to this it is to wete that he that hath tytle to enter whi he will make hys clayme, and if he dare approche vnto the land. Than it behoueth hym to goe vnto the land, or to parcel of it, & make hys clayme. And yf he dare not approche vnto the land for dreade of beatyng, maymyng, or death, than it behoueth hym to goe. and to approche as nigh as he dare toward the land or parcel therof, and make his claime And if his aduersary that occupyeth the land. dye seysed in fee or in fee tayle within a yere and a day after such clayme made, by whiche the tenementes discend vnto his sonne as heyre vnto him, yet may he that made the clayme enter

vpon

vpon the poſſeſſion of the heyres. But in thys caſe after the pere & the day that ſuch clayme was made if none other clayme be made, if the father then dye ſeiſed, the morowe after the pere and the day, or at another day after. &c. than may not he that made the clayme enter. And therfore if he that made the clayme will be ſure alway that hys entre ſhall not be taken awaye by ſuche diſcent, it behoueth hym that within the pere and the day after the firſt clayme, to make another clayme in the fourme aforeſayd. And within the pere and the day after the ſecond clayme to make the thyrd clayme in the ſame maner, and within the pere & the day after the thyrd clayme, to make another clayme and ſo forth, that is to ſay, to make another clayme within euery pere and day next after euerye clayme made, duryng the lyfe of hys aduerſary, and than at what tyme that hys aduerſary dye, his entre ſhal not be taken away by no ſuch diſcēt. And ſuch clayme made in ſuch maner is moſt commonly taken, and called continual clayme of him that made the clayme. But yet in caſe aforeſayd where his aduerſary dyeth within the pere and the daye next after the fyrſt clayme, thys is in the law continual clayme, inſo much that his aduerſary dyed within the pere and the daye after the ſame clayme for it is no neede for him that made the clayme to make anye other clayme, but at that tyme that he within the ſame pere and the day &c.

¶ Also if his aduersary be disseised within the yere & a day after the clayme, and the disseisour dyeth therof seised within the yere & the day &c. Thys dying seised shall not hurt him that made the clayme, but that he may enter &c. For whosoeuer he be that dyeth seised within the yere & the day after such clayme, that shall not hurt him that made the clayme, but that he may enter though there wer many dyinges seised & many discentes within the yere & the day &c.

¶ Also if a man be disseysed, and the disseysour dye seysed within the yere and the day next after the disseisin done, wherby the tenementes discende to his heyre, in thys case the entre of the disseisie is take away for the yere and the day that shoulde helpe the disseisie in such case &c. shall not be taken from the tyme of the tytle of entre growen vnto hym, but onelye from the tyme of the clayme by hym made in tyme aforelayd. And for that cause it shalbe good for such a disseisie for to make his clayme &c. in as short tyme as he may after the disseisin &c.

¶ Also if such a disseisour occupy the land by .xi. yeres without any clayme made by the disseisy &c. & the disseisy by litle space before the death of the disseisour make claim in ꝯ forme aforelayd, if so it fortune that within a yere and a day after such clayme the disseisour dyeseysed &c. the entre of the disseisie is congeable, and for this it shalbe good for such a man that made no clayme that hath tytle to enter

&c. when

ſe. when he heareth that hys aduerſarye ipeth liche to make hys clayme. ſc.

¶ Alſo as it is ſayd in the caſes put before where a man hath tytle to entre becauſe of a diſſeiſin ſc. The ſame law is where a manne hath ryght to enter becauſe of the tytle ſc.

¶ Alſo in thys ſaid preſidentes maype know my child by ii. thinges. One is where a man hath title to entre vpon a tenant in tayle, if he make any ſuch clayme vnto the lād ſc. Thē is the ſtate of the tayle defeted, for that clayme is as an entre made by hym, and is of the ſame effect in ȳ law as he wer vpon the ſame tnementes, and had entred in the ſame tenementes as is afore ſayd. And then whan the tnant in tayle immediatly after ſuch clayme continueth hys occupacion in the tenementes this is a diſſeiſin made of the ſame tenementes vnto him that made the clayme. Et ſic p cōſequens, the tenant then hath fee ſimple ſc.

¶ The ſecōd thing is, that as oft as he ȳ hath right to enter maketh ſuch clayme. & this notwithſtāding hys aduerſary cōtayneth his occupacio ſc. ſo oft the aduerſary doth wrong & diſſeiſin to him that made the clayme. And by this caſe ſo often maye he that made the ſame clayme for euery ſuch wrong & diſſeiſin made vnto hym, haue a writ of treſpas. Quare clauſum fregit ſc. to recouer hys damages ſc. Or he may haue a writte vpon the ſtatute of kyng Rychard the ſecond made the fyfth yere of hys raygne, ſuppoſyng by hys writte

that his aduersary hath entred into the lãdes or tenementes of hym that made the clayme where hys entre was not geuen by the law &c. and by such accion he shall recouer hys damages &c. And if the case be such that the aduersary occupy the tenementes with force, & armes, or with a multitude of people at the tyme of such clayme. &c. Than may he that made the clayme for euery such tyme haue a writ of Forcible entre and recouer hys treble damages.

¶ Also here it is to see yf the seruaunt of a man that hath tytle of entre may by the commaundement of hys master, make continual clayme for hys master in his name, and it semeth that in some cases he may doe this, for if he by his commaundement come to any parcell of the land, and there maketh claim &c. In the name of his master, thys clayme is good for his master, for thys that he hath done all that that behoued his master to doe in such case &c.

¶ Also if a master say vnto hys seruaunt that he dare not goe vnto the land nor to any parcel of the land for to make his clayme &c. & dare not approche more nygh vnto the sayd land, saue to such a place called Dale, and commandeth his seruaunt to goe to the same place of Dale, and therto make a clayme for hym &c. & the seruaunt so dooe &c. this semeth as good clayme for hys master as if he had been there in his own parson, for that the seruaunt dyd all that his master durst doe and ought to doe

by the

by the law in such case.

Also if a man be so sicke or so lame that he may not in no maner come to the land nor to any parcel of the same, or if there be a recluse that may not because of hys order goe out of his house &c. if such a maner parson commaūd his seruaunt to goe and make clayme for him &c. and the seruaunt dare not goe to the land, nor to any parcel therof for doubt of beating, maime or death, and for that cause suche seruaunt cometh as nigh to the land as he dare for such drede, and maketh this clayme &c. for his maister it semeth that such clayme for his maister is good and strong in the law, for els his maister should be in to great mischief, for it may well be that such a parson that is sick or lame, or recluse, can not find any seruaunt that dare goe vnto the land nor to any parcel of it to make the clayme for hym &c. But yf the maister of such a seruant be in good helth and may and dare wel goe to the tenementes or to parcel of it to make hys clayme for him & if such a maister commaund his seruaunt to goe to some parcell of the lande, and make clayme for him &c. And whan the seruaunt is goyng to dooe the commaundement of hys maister he heareth by the way suche thinges that he dare not goe to any parcel of the land nor to make any clayme for hys maister, and for that cause he goeth as nigh vnto the land as he dare for dout of death, and there he maketh clayme for his maister in the name of hys

maister

mayster &c. It semeth that the doubte in the lawe in such case shalbe if such claim anayleth to his mayster, not for thys that the seruaunt dyd not all thys that hys maister at the tyme of commaundement durst haue done.

¶ Also some haue sayd that where a man is in prison & is disseysed & the disseisour dyeth seised during the time that the disseisi is in prison, by which tenementes discend to the heire of the disseisour, they haue sayd that this shall not hurt the disseisy that is in prison, but he may wel ētre notwithstāding such discent for thys that he may not make cōtinual clayme whē he was in prison. And also yf such a one that is in prison be outlawed in an action of dette or trespas or in appele of robbery &c. he shal reuert such outlawry by writ of error &c. because he was in prison at the tyme of outlary against him pronounced.

¶ Also if a recouery be had by discēt against such a one that is in prison he shal auoyd the iudgement by a writte of errour for this that he was in prison at the time of such defaut made &c. And because that such maters of record shall not hurt thē that be in prison but that they be reuersed &c. A multo fortiori, It semeth that a matter in dede, that is to saye, such discent had when he was in prison, shall not hurt hym &c. specialiye for thys that he may not goe out of prison to make continuall clayme &c.

¶ And in the same maner it semeth to the

where a mā is out of ꝯ realme in the kinges
seruice for businesse of the realm, & if a man be
disseised when he is in the seruice of the kyng
that such discent shall not hurt the disseise, but
for thys ꝯ he might not make cōtinual claime
it semeth vnto thē that when he cometh a-
gayn into England he may entre again vpon
the heyre of the disseisour &c. For such a man
shall reuerse an outlary that is pronounced a-
gaynst him durying the tyme that he is in ser-
uice &c. Ergo a multo fortiori. He shall haue
ayde by the law in the other case &c.

Also other haue said that if a man be out of
the realme though he be not in the kinges ser
uice, yf such a man being out of the realme be
disseised of landes or tenementes within the realm
the disseisour dye seised &c. the disseisy being
out of the realm it semeth vnto thē that when
the disseisi cometh into the realme that he may
well enter vpon the heyre of the disseysour.
Quera. and thys semeth vnto them for two
causes.

One is, that he that is out of the realme,
may not haue knowlege of the disseisin made
to him by vnderstāding of ꝯ law, no more
than that a thing done out of the realme may
be tried within the same realm by the othe of
xii men &c. & compel such a man to make cōti-
nual claim which by the vnderstādingof ꝯ law
he hathe no knowlage or cognisāce of such dis-
seisin made or done, this shalbe inconuenient
namely whā such a disseisin is done vnto him,

whan

when he was out of the realme, also the d
ing seised was done when he was out of t
realme. For in such case he may not by poss
litle after the common presumpcion make
continuall clayme, but otherwise it shalbe
the disseisie wer within ꝑ realme at the t
of the disseisin or at the tyme of the dying se
sed of the disseisour &c. In other matter th
alledged for a proofe that when the statute
kyng Edward the third the.xxviii. pere of
raigne, by which estatute no clayms is out
the law was such, that if a tyne wer leued
certayn landes or tenemētes, if any that
a straunger to the tyne had right to haue,
to recouer thesame landes or tenements,
he came not and made hys clayme therof
in a yere and a day next after the tyne leui
he shalbe barred for euer. Quia dicebatur
nis quod finem litibus imponebat. And
the law was such, it is proued by the stat
of westminster the second. De donis condi
nalibus, where it speaketh if the fine be
ed of tenētes geuen in the tayle &c. Quod
ipso iure sit nullus, nec habeant heredes
illi quos spectat reuercio licet plene etatis
it in anglia extra personam, necesse abbo
clameum suum. So it is proued that if a
ger that hath ryght vnto the tenementes
wer out of the realme at the tyme of the
leuied &c. shall haue no dammage though
such tyne was mater of record by greater
son it semeth vnto them that a disseisin and

nt that is matter and dede that not so greue
m that was disseised when he was out of
e tenure at the tyme of the disseisyn and also
the tyme that the disseysour dyed seysed. &c.
t that he may well entre notwithstandyng
ch discent.

Also enquire if a man be disseised and he ar
n assise agaynst the disseysour. and the te=
nauntours of the assyse chalenge for the playn
, and the iustices of the assyse wil be adui=
d of theyr iudgementes vntill the next assise
and in the meane season the disseysour dy=
seysed &c. If the sayd sute of the assyse that
taken in law for the sayd disseysyn a contri=
all clayme, in so much that no defaute was
to hym &c.

Also enquere if an abbot of a monastery dye
during the tyme of vacacion a man wrõg
ly entreth in certain parcels of land of the
nastery clayming the lande vnto hym, and
heyres, and of that estate dyeth seysed, &
land discendeth vnto hys heyres, and af=
that an abbot is chosen and made abbot of
same monastery, a question is if the abbot
enter vppon the heyre or not. And it se=
eth to some, that the abbot may well enter
tys cale, for tyrs that the couent in tyme
vacacion was no parson. able to make cõ=
al clayme for no more than they be perso=
le to sue an accion, no more be they perso=
le to make continual claym. for the couent
e as a dead body without head, for in

tyme

tyme of bacacion a graunt made vnto them t
vopde, and in thys caſe, the Abbot maye no
haue a writ of entre vpon diſſeiſin againſt t
heyre, for this that he was neuer diſſeiſed. A
if the abbot may not enter in this caſe, than h
ſhall put vnto hys writte of right the wh
ſhalbe to hard for the houſe by which it ſeme
to them that the abbot may wel entre &c. N
te de dubus legem bene diſcere ſi vis qu
dat ſapere que iunt legittima vere.

¶ Releſſees. Cap. 8.

RElelſes be in dyuers maners that is to ſ
releſſe of right that a man hath in landes
tenementes, & releaſe of actions reals & pe
ſonals, and of other thinges releſſe of all th
right ỹ a man hath in landes or tenemẽtes
is cõmonly made in ſuch forme or to ſuch e
fect. Nouerint vniuerſi p̃ preſentes me. I. d
B. remiſiſſe, relaxaſſe, & omnino de me & he
meis quiet̃ clamaſſe ℭ de. D. totũ ius tituli
clameũ q̃ hñi habeo vel quouſmodo in futu
habere potero de et in vno meſ cum pti
&c. And it is to vnderſtand ỹ theſe wordes
(remiſiſſe & quiet̃ clamaſſe) be of ſuch effect
theſe wordes relaxaſſe &c. & alſo theſe word
des which be cõmonly put in ſuch dedes of
leſſes. &c. that is to vnderſtãd. Que quomin
do in futurum habere potero, be as wordes
vopde in the lawe, for no tyght paſſeth by a
leaſe but the right that the leſſour hath at t
time of his releaſe made for if it be father a
ſonne

ſonne, & the father be diſſeiſed, & the ſonne ha-
ung, hys father releaſeth by hys dede to the
ſſeiſor al the right that he hath or may haue
the ſame tenementes without clauſe of war
ãtie ꝛc. & after the father dyeth ẏ ſonne may
wfully ent vpon the poſſeſſion of the diſſey-
or, for this ẏ he had no right in ẏ land liuyng
is father, but ẏ right diſcended vnto hym by
eſcẽt aft the releaſe made by the death of his
ther. Alſo in a releaſe of al the right ẏ a man
ath in certain lãdes, it behoueth vnto hym to
whõ the releaſe is made in ſuch caſe ẏ he haue
ter hold in the lãdes in dede or in the law
the time of the releaſe made, for in euery
here he to whõ the releaſe is made, hath a
ter held in dede or in law at the tyme of the
eleaſe made ꝛc. the releaſe is good frankteſit
law, as if a man haue diſſeyed another &
erof dyeth ſeiſed by the which the tenemẽ-
es diſcend vnto hys ſonne, howe be yt that
ſonne entre not in the tenementes, yet he
th a franktenemẽt in the lawe to hun vpon
, & therfore ẏ releſe made is good ynough
d if he take a wyfe ſo beyng ſeyſed in the
howbeit that he neuer enter in dede & dy
his wyfe ſhal haue therof her dower. Al-
ſuch caſe of releſe of al her right, howbe
ẏ he to whõ the releſe is made ne hath any
g in the franktenemẽt neither in dede nor
lawe, yet the releaſe is good ynough, as if
diſſeyſour haue lette lande that he had by
yght to another for tearme of hys lyfe,

ſauyng

ſauing the reuercion to hym, if the diſſeiſie of
hys heyres releaſe vnto the diſſeyſour all the
ryght &c. that releaſe is good, for this that he
to whom the releaſe is made, had in hym re-
uercion at the tyme of the releaſe made. In
theſame maner if a leaſe be made to a manne
for terme of iyfe the remaynder vnto another
to terme of iyfe the remaynder vnto the third
in the tayle, the remaynder vnto the fourth in
fee, if a ſtraunger that hath the ryght vnto the
land releaſe all hys right vnto any of them the
remaynder, ſuch releaſe is good, for thys that
euery of them hath a remaynder veſted in hym
ſelf, yet if the tenant for terme of iyfe be diſ-
ſeyſed and after that hath ryght (the poſſeſſion
beyng in the diſſeiſour) releaſe vnto one of the
to whome the remaynder was made all hys
ryght &c. That releaſe is voyde, for that, that
he neuer had in hym no remaynder in dede, but
all onely a ryght of a remaynder, at the tyme
of the releaſe made. Et nota, that euery releaſe
made to hym that hath a reuerciō or a remain-
der in dede ſhal ſerue and help the that have
the frank tenement as well as them to whom
the releaſe is made yf the tenant haue the re-
leaſe in hys hand &c. In theſame maner a re-
leaſe made to a tenant for terme of iyfe, or to
a tenant in the tayle, ſhall enure vnto them in
the reuercion or to them in the remaynder as
well as to the tenant of frank tenement, and
ſhall haue a great aduauntage of that, if the
they may ſhew it, alſo if there be lorde and te-
nant

naunt and the tenant is diſſeaſed, and the diſſeyſi releaſeth vnto the diſſeaſour all the right that he hath in the ſeignyorye or in the lande, the releaſe is good and the ſeignyorye is extynct. And yf the goodes of the diſſeyſi be take, and of them the diſſeaſi ſueth a repiegiare agaynſt the lorde, he ſhall compell the lorde to auow vnto hym, and yf he wyl auow vpō the diſſeaſour, then vpon the matter ſhewed, the auowry ſhall be abated, for the diſſeaſe is tenant to them in ryght and in law.

¶ Alſo yf lande be geuen to a manne in the tayle reſeruyng vnto the donour & hys heires a certayne rent, yf the done be diſſeaſed, and after the donour releaſeth to the done al the ryght that he hath in the lande, and after the donee entreth into the lande vpon the diſſeaſour, in this caſe the rent is gone, for thys ỹ the diſſeaſy at the tyme of the releaſe made was tenaunt in ryght and in lawe vnto the donour and the auowry of fine force ought to be made vpō hi by the donor for the rēt behind & But yet nothig of the ryght of ỹ lād ỹ is to ſaye of the reuerē than paſſeth not by ſuche releaſe, for this that the done to whom the releaſe was made then hadde nothyng in the lande, but onely a ryght and ſo the right of the lande, ne maye not paſſe by ſuche releaſe to the donee. In the ſame maner it is yf a leaſe bee made to one for terme of lyfe, reſeruyng to the leſſour and to hys heyres certayne rente, yf the leſſee bee diſſeaſed, and

after the leſſour releaſeth to the leſſe, and to hys heyres, and after the leſſe entreth, howbeit that in the caſe the rent is extincte, yet nothyng of the ryght palleth. &c. cauſa qua ſupra. But yf it be very lorde and very tenaunt and the tenaunt maketh a feoffement in fee, the which feoffe neuer became tenant to the lord &c. yf the lorde releaſe to the feoffour all hys ryght. &c. that releaſe is in al void for this that the feoffour hath no ryght in the lande, and he is no ryght in the lande and he is no tenaunt in ryght to the lorde but onely tenaunt as for the auowry to be made, and he ſhall neuer compell the lorde to auowe vpon hym for the lord may auow vpon him the feoffe yf he wyll it be otherwyſe it is where the very tenant is diſſeaſed as in caſe aforeſayd for if the very tenant that is diſſeaſed holdeth of the lorde by knyghtes ſeruice, and dyeth, hys heyres dyers within age the lorde ſhall haue and ſeaſe the warde of the heire. And ſo he ſhall not haue the ward of the feoffor that made the feoffe in fee for it is a great diuerſite betwene theſe two caſes.

Alſo yf a manne enfeoffe another in his lande vpon truſte and to the entent that he ſhall parfourme his laſt wyll and the feoffe occuppeth that ſame at the wyll of his feoffes and after the feoffes releaſe by theyr dede vnto the feoffour all the ryght. &c. This hath ben in queſtion yf ſuche releaſe bee good or not, ſome haue ſayde that ſuche releaſe is good in

thys

thys that no priuitie was betwene the feoffes and theyr feoffour in so muche that no leaſe was made after ſuche feoffemente by the feoffes to theyr feoffour to holde at theyr wyll. &c. and ſome haue ſayde the contrary and that for two cauſes. One is that whan ſuch feoffement is made vpon confidence to parfourme the wil of the feoffour, that it ſhalbe vnderſtād by the law that the feoffor by and by, ought to occupy the land, at the wil of hys feoffees, and so it is ſuche maner of priuitie betwene them, as yf a manne make a feoffement to another perſon and they incontinent vpon the feoffement wyll ſaye and graunt that the feoffour ſhall occuppe the lande at theyr wyll. &c. Another cauſe they alledge that yf ſuche lande be worth. xl. s. by yere. &c. Than ſuch a feoffour ſhalbe ſworne in aſſyſes and in other inqſtes in plees reals and alſo in plees perſonels, of what great ſommes ſoeuer that the playntifs wyll declare. &c. And thys is by the common law of the land. Ergo thys is for a gret cauſe, and the cauſe is that the law wyll that ſuche feoffours and their heyres ought to occupy. &c And to take therof the rent and all the profytes and all maner of yſſues, and reuenues. &c. As though the tenementes wer their own bythout interrupcion of feoffes, notwithſtanding ſuch feffemtz. Ergo the ſame law geueth a priuite betwene ſuch feoffors, & their feffes vpō confydence. &c. For whyche cauſes they haue ſayde that the releaſe made by ſuche

feoffes vppon confidence to the feoffour, or to hys heyres et cetera. So occupying the lande. ꝛc. ſhall bee good ynough & cetera. And this is the better oppinō, as it ſemeth. Alſo releaſes after the matter in dede ſometyme haue theyr effecte by force to enlarge the eſtate of them, to whom the releaſe is mad, as yf I lette certayn land to a man for terme of yeares, by force whereof he is poſſeſſed, and I releaſe vnto hym all the ryght that I haue in the lande without more woordes ſet or put in the dede, and deliuer vnto hym the dede. Than he hath eſtate but for terme of hys lyfe, and the cauſe is for thys that whē the reuercyon or the remaynder is in a manne the whyche wyll enlarge by hys releaſe the eſtate of the tenaunt. ꝛc. he ſhall haue no greater eſtate but in the maner and fourme. As if ſuche a leaſour were ſeaſed in fee and wyll by his dede make eſtate to one in a certē fourme. ꝛc. and deliuer vnto hym ſeyſin by force of the ſame dede if in ſuche dede of feoffement there be no woorde of inheritaunce. ꝛc. Thā he hath eſtate but for terme of life. ꝛc. and ſo it is in ſuche releaſe made by hym in the reuercion, or in the remaynder for yf I let lande to a man for terme of lyfe, and after I releaſe vnto hym all my ryght without more ſaying in the releaſe, hys eſtate is not enlarged. But yf I releaſe vnto hym and to hys heyres of hys body ingendred, than he hath fe tayle, and yf I releaſe vnto hym and to hys heyres, than he

hath

hath fee ſymple. So it behoueth in ſuche caſe to ſpecifye in the dede, what eſtate he to whō the releaſe is made ſhall haue. ꝛc. And ſomeꝑyme releaſe ſhall enure to ſet & putt the ryght of hym that maketh the releaſe to hym, to whō the releaſe is made. As a manne is diſſeaſed and he releaſeth vnto the diſſeaſour all the ryght that he hath. In thys caſe the diſſeaſour hath hys ryght, ſo that wher his eſtate before was wrong, now by the releaſe it is lawfull and ryght but note well that whan a manne is eaſed in fee ſymple of any landes, or tenementes, and another wyll releaſe vnto hym all the ryght that he hath in theſame tenementes it nedeth not to ſpeake of the heyres of hym to whom the releaſe is made, for this that he had fee ſymple at the tyme of the releaſe made, for yf the releaſe were made to hym and to hys heyres for one daye or for one houre, this ſhal be as ſtrong vnto hym in the law, as he had releaſed to hym and to hys heires for whā hys ryght was gone from hym at one tyme by his releaſe without any condicion. ꝛc. to hym that had fee ſymple it is gone for euer. But where a man hath a reuercion, or a remaynder in fee ſymple at the tyme of the releaſe made there he wyll releaſe to the tenaunt for terme of yres or for terme of lyfe, or to the tenaunt in the tayle, it behoueth to determyne the eſtate that he to whō the releaſe is made ſhall haue by force of theſame releaſe. For this that ſuch releaſe goeth to enlarge the eſtate. ꝛc. of hym

to whō the releſe is made. But otherwyſe if
is wher a mā hath but a right vnto the land &
hath nothing in the reuerē nor in the remayn
der in dede. For if ſuch a man releaſe all hys
right to one ỹ is teñt of the frāktenemt al hys
right is gone, though that no menc̄ be made of
his heires of him to whō the releaſe is made
For if I let land to a man for terme of lyfe, &
I after releaſe vnto him for to enlarge hys e-
ſtate. it behoueth that I releaſe vnto him & to
his heires of his body engendred, or to his &
his heires males of his body begotten or by
ſuch ſēblable eſtate. &c. or otherwiſe he hath no
greater eſtate thā he had before. But yf my te
nāt for tme of life let theſame land out to ano-
ther for terme of the lyfe of his leſſe, the remai-
der vnto another in fe, now if I releaſe vnto
hym to whom my tenaunt letted for terme of
life I ſhalbe barred for euer, though that no
mencion be made of his heyres, for thys that
at the time of the releaſe made I had no reū-
cion but onely a ryght to haue the reuercion.
For by ſuch a leaſe with a remaider ouer that
my tenaunt made, in thys caſe my reuercion
is diſcontinued and ſuche a releaſe ſhal enure
vnto hym in the remaynder to haue aduan-
tage of thys as well as to the tenaunte for
terme of lyfe for to thyt entent the tenaunt for
terme of life & he in the remaynder be as one
tenant in the law, and be as if one tenant were
ſole ſeaſed in hys demeane as of fe at the time
of ſuche releaſe made vnto hym. Alſo yf a man
be

he dyſſeyſed by two of the releaſe vnto one of them, he ſhall holde hys fee towe out of the land and by ſuche releaſe ſhall haue ſole poſſeſſion, and eſtate in the lande. But yf one dyſſeaſour enfeoffe two in fee, and the diſſeyſy releaſe to one of them thys ſhall enure to bothe the ſayd feoffees. And the cauſe of the diuerſitye betwene theſe two caſes is repugnaunt ynough.

Alſo if I be diſſeaſed, & the diſſeiſor is diſſeaſed if I releaſe to the diſſeiſor of my diſſeiſor. I ſhall neuer haue aſſiſe nor enter vpon his diſſeaſour, for thys that hys dyſſeyſour hath my tyght by my releaſe. &c. And ſo it ſemeth in this caſe that yf there wer thirty diſſeiſors eche after other, & I releaſe to the laſt diſſeiſor he ſhal barre al the other of theyr accions & their title. And the cauſe is as it ſemeth, for this that in many in caſes when a man hath a lawful title to enter though he enter not. &c. he ſhal defete al meane tiules by his releaſe. &c. But this is not in euery cauſe as ſhalbe ſayde afterwarde.

Alſo if a man be diſſeiſed the whiche hath a ſone within age, & dieth & being the ſone with in age the diſſeiſor dieth ſeaſed, & the land deſcendeth to his heire, & a ſtranger abateth, and after the ſone of the diſſeiſy whan he commeth vnto full age releaſeth all his tyght. &c. to the abatour. In this caſe the heire of the dyſſeyſour ſhall haue no aſſiſe of mort dauncester againſt the abatour but he ſhal be barred of the

allyſe for thys that the abatour hath the ryght of the ſonne of the diſſeaſy by hys releaſe, and the enter of the ſonne was lawfull &c. for thys that he was wythin age at the tyme of diſcent &c. but yf a manne bee diſſeaſed and the diſſeaſour maketh a feoffement vpon condicion that is to ſaye to yeld vnto hym certain rent and for the defaute of payment a reentre &c. yf the diſſeiſy releaſe to the feoffe vpon condycion yet this altereth not the eſtate of the feoffe vpon condicion as it was before. In the ſame maner it is where a man is diſſeaſed of certayne lande, and the diſſeaſour graunteth a rent charge out of the ſame land though that after the diſſeiſy releaſeth vnto the diſſeiſour, &c. yet the rent charge abideth in his force. And the cauſe is in theſe two caſes that a man ſhal haue none aduauntage by ſuche releaſe that ſhall be agaynſt hys owne proper acceptance and agaynſt his owne grant. And though that ſome haue ſayd that where the enter of a man is congeable vpon a tenaunt yf he releaſe to the ſame tenaunt that thys auayleth vnto the tenaunt ſo as yf he had entred vpon the tenaunt and after enfeoffed hym. &c. this is not true in euery caſe for in the fyrſte caſe of theſe two caſes yf the diſſeiſy in fee enter vpō the feoffe vpon condicion and after enfeoffeth hym, that the condicion is all put aſyde and voyde. And in the ſeconde caſe if the diſſeiſi enter and enfeoffe hym that graunted the rent charge that is the rent charge auoyded. But it is not auoyded

ed by any ſuch releaſe with an enter made.
Alſo yf a man be diſſeaſed by a child with=
age the which alyeneth in fe, and the alyen
eth ſeaſed and his heyre entreth beyng the
eſſour within age. Now it is in the electi=
of the diſſeaſour to haue a wrytt of Dū fuit
ra etatem. Or a wrytte of ryght agaynſt the
eyre of the alyen and which wrytt ſo euer he
eth of thē he ought to recouer by the law.
and alſo he may enter into the lande without
recouere & in this caſe the enter of the dyſ=
is taken away but in this caſe yf the dyſ=
releaſe hys ryght to the heyre of the alyen
after the dyſſeaſour bryngeth a wrytte of
ght agaynſt the heyre of the alyene, and he
meth the myſe vpon the clere ryght &c. the
ſtaunde aſſyſe ought by the laws to fynde that
tenaunt hath more clere ryght. &c. thā hath
diſſeſour for this that the tenant hath the
ght of the diſſeſy & his releſe which is more
cient & more clere ryght thā the right of the
eſor, for by ſuch releaſe al the right of the
ſeiſy paſſeth vnto the teſt, & is in the tenāt.
and to this ſom haue ſaid yt in ſuch caſe wher
nā hath right to landes or tenemtz but hys
enter is not lawful, if he releſe vnto the teſt.
Than ſuch releaſe ſhal enure by way of ex=
tinguiſhment. As vnto this it may be ſayd
that this is truth vnto hi that releaſeth, for by
releaſe he hath diſmiſſed hi ſelf clene of his
ght as to his parſon. But yet the ryght that
had may wel paſſe & go vnto the teſt by his
releaſe,

releaſe, for it ſhould be inconuenient that ſuch
an aūcient right ſhould be extinct at vtterlye.
&c. for it is comōly ſayd that right may not de
But a releaſe ỹ goth by the wai of extinguiſ
ſhit againſt al pſons, is wher he to whō the re
leaſe is made may not haue this that vnto h
is releaſed, as if ther be lord and tenant, and
the lord releaſeth vnto the tenant al the right
that he hath in the lordſhip or al the rygh
he hath in the land. &c. ſuch a releaſe goeth b
waye of extinguiſhment againſt al parſons.
for this that the tenant may not haue the lame
of hymſelf. In the ſame maū is a releaſe made
to the tenant of the land of a rent charge or o
a comon paſture for this that the tenant ma
not haue that that vnto hym is releaſed, &c.
So ſuch releaſes goe away by extynguiſhme
agaynſt all parſons.

¶ Alſo to proue that the graunde aſſyſe ought
to paſſe for the demandaunt in the caſe afore-
ſaid I haue heard often in the lecture vppon
the ſtatute of weſtm̄ the ſeconde that begyn-
neth. In caſu quando vir amiſerit per defaltā
tenementū q̄ fuit ius vxoris ſue. &c. that is a
the comō law before the ſtatute, if a leaſe wer
made to a tenant for terme of life the remayn
der out in fee a ſtranger by a fayned actiō re-
couer againſt the tenante for terme of life by
defaut, & after the tenāt dieth, he in the remain-
der had no remedy before the ſtatute for thys
that he had no poſſeſſiō of the land, but if he in
the remainder had entred vpō the tenant for

terme

erme of lyfe. and diſſeiſed hym, and after the
enant entreth vpon hym. and after the teſit
terme of lyfe leaſeth by ſuch recouere had
defaut and dyeth, now he in the remaidre
aye well haue a wryt of ryght agaynſt hym
at recouered, for thys that the myſe ſhall be
ymed onely vpon the clere right. And yet in
is caſe the ſeiſin of hym in the remaynder,
as defeted by the entre of the tenaunte for
rme of lyfe. But paraduenture ſome wyll
gue and ſay that he ſhall haue no wrytte of
ght in this caſe, for this that whan the miſe
ioyned in ſuch maner, that is to ſay, yf the te
ant haue more clere right to the lande in the
aner as it is holden, than the demaundaunt
ath in the maner as he demaundeth. And for
as that the ſeiſin of the demaundaunt was
eſeted by the entre of the tenaunt for terme
lyfe, than he hath no ryght in the maner as
demaundeth. Unto thys it maye be ſayde
at theſe wordes (Modo & forma pront. &c.)
many caſes be wordes of maner of plea-
yng and no wordes of ſubſtance for yf a mā
ing a wrt of entre (In caſu prouiſo) of alye-
ē made by the teñt in dower to his diſenhe-
itance, & pleadeth of the alienacion made in fe
the teñt ſaith that he alienēd not in the maſ
as the demaundant hath declared, & vpō thys
ey be at iſſue, & it is found by verdit that the
aunt alienēd in the taple, or for terme of a-
others life the demaundaunt ſhall recouer,
yet the alienacion was not in the maner

as

as the demaundaunt hath declared.

¶ Also if there be lorde and tenant, and the tenant holdeth of the lorde by fealtie onely, & the lorde diſtrayneth the tenant for rent, and the tenant bringeth a writ of treſpas against hys lorde for hys cattayle ſo taken, and the lorde pleadeth that the tenaunt holdeth of hym by fealtie and certayne rent, and for the rent behynde he came to diſtrayne. &c. And demandeth iudgement of the writ brought against hi. Quare vi & armis. &c. And the other ſayth that he holdeth not of hym in the maner as he ſuppoſeth, and vpon thys they be not at yſſue, and it is founde by verdyte that he holdeth of him by fealte tantū in this caſe the writ ſhall abate, & yet he held not of the lorde in the maner as the lorde had ſaid for the mater of the yſſue is whether the tenant holdeth of hym or not. For if he hold of him though the lorde diſtrayne for other ſeruices that he ought not to haue yet ſuche writ of this. Quare vi & armis. &c. lieth not againſt the lorde but ſhal abate.

¶ Also in a writ of treſpas of bearyng away goodes taken ꝑ the defendant pleade nothyng culpable in the maner as the playntyf ſuppoſeth and it is founde that the defendant is culpable in another towne or at another day then the plaintif ſuppoſeth yet he ſhall recouer. And in many mo other caſes theſe wordes, that is to ſay in the maner as the demandaunt or the plaintif hath ſuppoſed, be no matter of ſubſtance of that yſſue for in a writ of ryght wher

the

he myſe is ioined vpon the clere right it is as
uch to ſay and to ſuch effect that is to witt,
whether hath the moze ryght the tenaunt oz
he demaundaunte to the tryng ſo demaun=
ed.&c.

Alſo yf a man be diſſeaſed and the diſſeaſoz
eth ſeaſed.&c. and his ſonne entreth by dyſ=
ent and the diſſeaſe entreth vpon the heyze
f the dyſſeaſour, the which enter is a dyſſeaſy
. yf the heyze bryng aſſyſe oz a wzyt of right
aiſt the dyſſeyſy he ſhalbe barred. Foz this
at whan the graunde aſſyſe is ſwozn they
the is vpon the clere ryght and not vpon the
ſſeſſion.&c. foz yf the heyze of the dyſſeaſour
ad brought aſſyſe of nouel dyſſeaſyn, oz a wzit
f enter in nature of aſſyſe and recouered a=
gaynſt the dyſſeyſi and ſued execucion yet may
e dyſſeaſi haue a wzyt of enter in the per a=
gaynſt hym of the dyſſeaſin made vnto hym by
is father, oz he may haue agaynſt the heyze a
wzyt of ryght. But if the heyze ought to reco
r agaynſt the dyſſeaſi in the caſe afozeſayde
y wzyt of ryght then al his right ſhalbe clere
gone, foz this that a fynall iudgement ſhold
e geuen agaynſt hym which ſhould be againſt
reaſon wher the diſſeyſy hath moze clere right
. And knowe ye my ſonne that in a wzyt of
ght after this that the foure knyghtes bee
ſoen in the graunde aſſyſe, than there is no
rater delay thā a wzyte of forme don after
ay the parties be at an iſſue.&c. & if ꝑ myſe
ioyned vpon battaile thā ther is leſſe delay

Alſo

¶ Alſo a releaſe of al the ryght. ꝛc. in ſom caſ
is good made vnto hym that is ſuppoſed te
naunt in the law though he haue nothyng
the tenementes as in a Præcipe quod redd
yf the tenant alyen the land hanging the w
and after the demaundant releaſeth to hym
his right that releaſe is good, for this that
is ſuppoſed to be tenant by the ſute of the de
maundant and yet he hath nothyng in the l
at the time of the releaſe made. ¶ In the ſa
maner it is yf in a præcipe quod reddat, the
nant vouche, and the vouche enter in the g
rantye, yf after the demaundant releaſe to
vouche al his right. ꝛc. this is good ynough
for this that the vouche after this that he ha
entred in the garranty is tenaunt in lawe
the demaundaunt.

¶ Alſo as two releaſes of accions reals a
accions perſonels it is ſo that ſome accep
be myxt in the realtie and in the perſonalt
as yf an accion of waſt be ſued againſt the
nant for terme of life, thys accion is in the r
alte for this that the place waſted ſhalbe r
uered, & alſo it is in the perſonaltie. for this
treble damage ſhalbe recouered for the
& waſt done by the tenant, & for this in this
cion a releaſe of accion real is a good plee
barre & ſo is a releaſe of accions perſonels.
the ſame maner it is in aſſiſe of nouel diſſeiſ
this that it is myxt in the realtie and in the p
ſonaltie. But if ſuch aſſiſe be arrayned age
the diſſeiſour the tenant of the diſſeiſour

plee

lede a releaſe of acciõs parſonels for to bare
e allise but not a releaſe of acciõs reals for
ne that plede a releaſe of acc̃ reals in allyle,
t the tenauntes.ꝛc.

Also in ſuch accions that behoueth to be
ed agaynſt the tenaunt of the frankteneme̅t
the tenaunt haue a releaſe of accions reals
the demaundant made vnto hym beſore the
yytte purchaſed and he pledeth it this is a
od ple for the demaundaunt to ſay, that he
t pledeth that ple, had nothyng in the frã
neme̅t in time of the releaſe made, for that
had no cauſe to haue accion reale agaynſt
m.

Also in ſuche caſe where a manne maye
er in landes or tenementes, he maye haue
this an accion real, which is geue̅ vnto hi
the law againſt the tenant. As in this caſe.
e demandant releaſe to the ten̄t al man̄ act̃
ls, yet this taketh not awaye the entre of
e demandant but the demandant may well
er. Notwithſtanding ſuch releaſe for thys
nothing is releaſed but the accion.ꝛc. In
ſame maner it is of thinges parſonels. As
a man wrongfullye take my goodes, yf I
eale vnto him al accions parſonels yet I
y by the lawe take my goodes out of hys
ſſion.

Also if I haue cauſe to haue a writ of deby-
e of my goodes againſt another though that
releaſe vnto hi for all accions ꝑſonels yet
maye take my goodes out of his poſſeſſion.

for

for thys that no right of goodes is releaſed
hym but onely the accion. ꝛc. Alſo yf a man
diſſeaſed, and the diſſeaſour maketh a feoff
ment vnto dyuers parſones to hys vſe, &
diſſeaſour contynually taketh the profites
and the diſſeaſy releaſeth vnto hym all actio
reals, and after he ſueth agaynſt hym a w
of enter in nature of aſſyſe becauſe of the
tute for thys that he taketh the profites.
quyre how the diſſeaſour ſhall be holpē by
ſayd releaſe, for yf he wil plede the releaſe
nerally, than the demandaunt may ſay that
had nothyng in the franketenement at the
of the releaſe made, and yf he plede the re
ſpecially thē it behoueth hi to know a diſ
ſyn, and than may the demaundaunt ente
lande. ꝛc. by hys conſentaunce of the diſſea
But paraduenture by eſpecyall pleadyng
mare be barred of the accion that he ſueth
thoughe that the demaundaunte maye
rre. ꝛc.

¶ Alſo if a manne ſue appelle of felony o
death of his anceſter againſt another tho
the appellant releaſe vnto the defendant
maſ accē reals & yloneis, this ſhal not help
defendant, for this that this appele is not
accē real inſomuch that the appellant ſhal
recouer any realte, nor ſuch appele is no a
perſonal. In ſo much that the wrong
vnto his aunceſter and not vnto hym but
releaſe to the defendant al maner af accy
than it ſhalbe a good barre in the appelle

ſo a man may ſee that a releaſe of a maner of
accions is better then releaſe of all maner of
accions and parſonals &c.

¶ Alſo in appele of robbery if the defendant
will plede a releaſe of the appellant of all ac-
cions parſoneis, thys ſemeth no plee, for an
accion of appele where the appellaunt ſhall
haue indgement of death. &c. it is more hygh
than an accion parſonel, and it is not properly
ſayd an accion parſonal, and therfore if the de
fendaunt will haue a releaſe of the appellant
to barre hym of the appele, it behoueth hym
to haue a releaſe of al maner of accions of ap
pele of releaſe, or of all maner of accions as it
ſemeth &c. But in appele of maym a releaſe of
all maner of accyons parſonals is a good ple
to barre, for thys that in ſuch an accio he ſhal
recouer but damages.

¶ Alſo if a man be outlawed in an accio par
ſonall by proceſſe of the originall and bryng a
writ of errour, yf he at whoſe ſuite was out
lawed will plede agaynſt him a releaſe of ac-
cions parſonals thys ſemeth no plee, for by
the layd accion he ſhal recouer nothyng in the
perſonaltie, but al onely to reuerſe the outla-
wry but a releaſe a writ of error ſhalbe a good
plee &c.

¶ Alſo yf a man recouer dette or damage and
a releaſe to the defendant al maner of accions
the may lawfully ſue execution by Capi-
as ad ſatisfaciendum or by Elegit, or by Fieri
facias, for execution by ſuche writte may not

be ſayd an accion, but if after a yere and a day the playntif will ſue a Scire facias to haue execucion &c. thē it ſemeth a releale of al accions ſhalbe a good plee in barre, but ſome haue thought the contrary inſomuch that the writ of Scire facias is a writ of execucion, & is to haue execucion. But in ſo much ỹ vpon the ſame writ the defendant may plede diuers maters after the iugemēt geuen to put him from execucion as outlary & diuers other &c. therfore it may wel be ſayd accion &c. and I trow that in a Scire facias out of a fine a releale of al maner of accions is a good plee in barre, but where a man hath recouered dette or damage & it is accorded betwene them that the playntif ſhalbe put out fro accion than it behoueth that the plaintif make a releſe to him of al maner of accions.

¶ Alſo if a mā releſe to another al maner demaūdes, this is the meſt beſt releale, that he to whō the releſe is made cā haue, & moſt ſhall enure to his aduauntage, for by ſuch releſe al maner of demaūdes al maner of accions reals & perſonals, & accions of appeles be gone extinct, and al maner of execuc̄ be gone and extinct. And if a mā had ỹtle to enter in any landes or tenemētes by ſuch releale his title is gone & if a man haue rent ſeruice or rent charge or common of paſture &c. by ſuch releſe of al maner demaundes to the tenant of the land wher of the ſeruice or the reentre is going out, or in what land ſoeuer the comm[illegible]

be,the ſeruice and rent, and the common is gone and extinct.&c.

Also if a man releaſe to another all maner quarelles,or al controuerſies or debates betwene them. Enquire to what mater,and to what effect ſuch wooꝛdes extend.

Also if a mā be bouñ by his dede to another in certain ſume of money to pay at the feaſt of S.Michael thā next folowing &c.if he obige before ꝯ ſaid feaſt releaſe to the obligoꝛ al naciõs he ſhalbe barred of the duetie foꝛ euer,& yet he might haue no acciõ at the time of the releaſe made. But if a man let land to another foꝛ terme of yeres to yeld at the feaſt of ſaynt Michael next enſuing.xl.ſhillinges and before the ſame feaſt he releaſeth to the leſſee all accions, yet after the ſame feaſt he ſhall haue an accion of dette foꝛ the nonpayment of the.xl.ſhillinges Notwithſtāding the ſayd releaſe. Study the cauſe of the diuerſitie betwene theſe two cauſes.

Also where a man will ſue a writ of ryght he behoueth that he plede of the diſſeiſin of hī or of his aūceſtors,& alſo that the ſeiſin was in time of the ſame king as he pledeth in his plee but this is an anciēt law vſed as it appeareth in repoꝛt of a certain plee.in ſuch fourme as maketh Sir John Barrey bꝛought a writ of right agaynſt Raynolde Schiyngton, and demaunded certayne tenementes et cetera.the plee was ioyned in the banke,and the originall and the proceſſe wer ſent before iuſtices

errantes, where the parties came and the .xii.
knyghtes wer ſworne without chalenge of
the parties to be alowed for thys that the elec-
cion was made by aſſent of the parties with
the fowre knightes and the othe was ſuche,
that I ſhall ſaye trouth &c. whether R. of I.
haue more ryght to hold the tenementes that
John Barray demandeth againſt hym by his
writ of right of John to haue the tenement
as he demaundeth and for nothyng to let it
ſaye the trouth as god me helpe. &c. without
ſaying to theyr eſſoynyng and ſuch othe ſhall
made in attaynte and in battayle and in wa-
gyng of lawe for thoſe doe euery thyng by
an end. But John Barrey pleded of the diſ-
ſyn of one Rafe hys auncеſtre in time of kyng
Henry, and Raynold vpon the meſe ioyned to
dered half a marke for the tyme &c. and vpon
this ſayd Clere iuſtice at the graund aſſyſe
ter thys that they wer charged vpon the clere
ryght. Good man Raynold gaue half a marke
to the kyng to the entent that he ſynd that the
auncеſtre was not ſeiſed in tyme that the de-
maundant hath pleded no further vpon the
ryght and for thys ye ſhall ſay to vs whether
the auncеſtre of John Rafe by name was ſei-
ſed in the tyme of kyng Henry as he hath ple-
ded or not & yf he ſynd that he was not ſeyſed
in the tyme ye ſhall inquire no more and if
ſynd that he was ſeyſed, than enquire further
of the ryght and after the graunde aſſyſe ca-
with theyr verdit, and ſaying that Rafe wa-

nat leysed in the tyme of king Henry, wherby it was awarded that Raynold shold hold the tenementes agaynst hym demaunded to him & to hys heyres quite out of J. Barrey & his heyres to the remenant, and John in the mercy.

¶ Confyrmacion. Ca.9.

A Dede of Confyrmacion is most commonly in suche fourme or to such effect. Nouerint vniuersi &c. me A. de B. ratificasse, approbasse & confirmasse C. de D. statum & possessiõ quos habeo de & in meswagio &c. cum pertinentijs in N. and in some case a dede of confyrmacion is good and baylable, and where in the same case a dede of release is not good nor baylable. As J let land to a man for tearme of hys lyfe, the whiche letteth the same land to another for xl. yeres, by force of the whiche he is possessed, if J by my dede cõfyrme the state vnto the tenant for terme of yeres, and the tenãt for terme of lyfe dyeth duryng the tearme of the yeres may not entre in the lande duryng the same terme, yet if J by my dede of release haue released to the tenant for terme of yeres the lyfe of the tenant for terme of lyfe the release shalbe voyd, for thys that than no priuitie was betwene me and the tenaunt for terme of yeres for a release is not auaylable to the tenant for terme of yeres but where a priuitie is betwene him, and hym that releaseth. In the same maner is if J be disseised and the disseisour maketh a release to another for

tearme of yeres. Also if I be dysseysed and I confyrme the state of the dysseisour than he hath a good and rightful estate in fee symple though ỹ in the dede of confirmacõ no mencion is made of his heyres, for this that he had fee symple at the time of ỹ confirmacõ, for in such case if the disseisi cõfirme the state of the disseisour to haue & to hold to him for terme his life, yet ỹ disseisour hath fe siple & is seised in his demene as of fee for this that whan his estate was cõfirmed he had fe symple & in the dede he may not change his estate without entre vpõ hi &c. In ỹ same maner is if the estate be cõfirmed for tme of a day or for terme of any other he hath a good estate in fe sipe or cõ mare fumũ facere. Also if.ii. be disseisours and the disseisi releaseth to the one, he shal hold his felow out of the lãd, but if the disseisi confirme the state of the one without more spech in the dede, some say ỹ he shal not hold his fellow out, but he shal hold ioyntly with him, for this ỹ nothing was cõfirmed but his estate was ioynt, & for this some haue sayd that the ioynteñtz be & the one cõfirmeth the estate of the other, ỹ he hath but a ioynt estate as he had before but if he haue such wordes in the dede of cõfirmacion to haue & to hold to him & to his heyres al the teneñtz wherof mencion is made in the confirmation, than he hath estate sole in the teneметes, & therfore it is good & a sure thing in euery confirmation to haue these wordes to haue & to hold the

nementes.&c. in fee or in fee tayle or for terme of life or for terme of yeres after as the cause of the matter is, for to ꝯ entēt of some if a mā let lād to another for term of life & after he cō ymeth hys estate by these wordes to haue & to hold his estate to him & to his heires, this cōfirmatiō as concerning his heyres is void, for his heires can not haue hys estate whiche was but for term of life but if he cōfirme hys estate by these wordes to haue the same lād to him & to his heires this confirmacion maketh fee simple in this cause to him in the land for this that they haue & hold &c. goth to the land & not to the estate ꝯ he hath &c. Also if I let certayn land to a woman sole for terme of her life the which taketh a husband, & after I cō firme the estate to the husband & to the wife for terme of theyr two liues in thys case the husbād holdeth not ioyntly with the wife but holdeth the right of his wife for terme of hys wyfe but this confirmatiō shal cure to the hus band by way of remaindre for term of his life if he suruiue his wife, but if I lette land to a woman sole for term of yeres whiche taketh a husband, & after I cōfirm the state to ꝯ husbands and the wife for tearme of bothe their lyues, in thys case they haue ioynte estate in the franktenement of the land for thys that the wyfe had no frank tenement before. Also if a parson of a church charge the glebe of his church by his dede, and the patrone and the ordinary confyrme the same grant and all that

is compryſed within the ſame graunt, than the ſame graunt ſhall be in hys ſtrength after the purpoſe of the ſame graunt, but in ſuch caſe it behoueth that the patron haue fee ſymple in the auowſon or if he haue eſtate in the auowſon for terme of lyfe or in taple, than the grãt ſhall be but duryng his life and the lyfe of the parſon that graunted it. &c. Alſo yf a manier land for terme of lyfe which tenant for terme of lyfe chargeth the land with a rent in fee, & he in the reuercion confyrmeth the ſame grãt, hys charge is good inough and effectual. Alſo yf ordinary hath nothyng to meddle nor to doe, the patron of the chantry, and they chaplayn of the ſame chauntry may charge the chãtry with a rent charge in parpetuitie. Alſo in ſome caſe theſe verbes dedi & conceſſi haue the ſame effect in ſubſtance and ſhall enure to the entent as thys verbe confyrmaui, as if I be diſſeiſed of a plough land and after I make ſuch a dede &c. Sciant preſentes &c. Quod dedi to the diſſeyſour the ſayde plough lande &c. And I deliuer al onely the dede to him without liuere of ſeyſyn of the land, that is good confyrmacion, and as ſtrong in the law, as if he had in the dede thys verbe confirmaui &c. Alſo if I let land to a man for terme of yeres, by force of which he is poſſeſſed, and after I make to him a dede &c. Quod dedi vel conceſſi &c. the ſame land to haue for tearme of hys lyfe, and deliuer hym hys dede than by & by he hath eſtate in the lande for terme of his

lyfe,

life, and if I say in the dede to haue to hym and to hys heyres of hys bodye engendred he hath estate in the tayle, & if I say in the dede to haue and to holde to hym and to hys heyres he hath estate in fee symple, for thys shall enure to hym by force of confyrmacion to enlarge hys estate. Also if a man be disseysed, & the disseisour dyeth seysed, and hys heyre is by discent, after the disseisy and the heyre of the disseisour make toyntly a dede to another fee, and liuere of seysyn vpon thys is made also to the heyre of the disseisour that enseeleth the dede the tenemētes passe by the same dede by way of feoffement, and as to the disseisy that enseeleth the same dede, thys shal not enure but by way of confyrmacion, but if the disseisy in thys case bryng a writ of entre in the post (and cut) agaynst the alyene of the heyre of the disseisour enquire how he shall plede that dede agaynst the demaundant by way of confirmacion &c. And know ye this my child that is one of the most honorable, laudable, and profitable thyng in our law to haue the scyēce of well pledyng, in actions reals and personals and for thys I counsayle thee specially to set the corage and cure to learne that. Also where be lord and tenaunt, and the lord confirmeth the estate that the tenant hath in the tenementes, yet the seignyory holly abideth to the lord as it was before. In the same maner is, if a man haue a rent charge out of a certayn land, and he confyrme the state that the tenant

tenant hath in the land, yet abideth to the con
fyrme the rent charge. In the same maner it
is if a man haue comen of pasture in the land
of any other, if he confirme the state of the te-
nant of the lād nothing shal depart from him
of his common, but this notwithstanding the
comon abideth to him as it was before.

¶ But if there be lord and tenant which hol
deth of his lord by seruice of fealtie and .xx.s.
of rente, if the lorde by his dede confirme the
state of the tenaunt to hold by .xii. d. ī d. or by
an ob. in this case the tenant is discharged of
all other seruice and shall yeld nothing to the
lord but that that is cōprised within the same
confirmacion, yet if the lorde will by the dede
of confirmacion that the tenaunt in this case
ought to yeld to him an hawke or a rose pen-
ny at such a feast &c. this reseruacion is good,
for thys that he reserueth to him a new thing
that neuer was parcel of the seruices before
the confirmacion, & so the lord may abbryge
the seruices by such confirmacion but he may
not reserue to hym a new seruice &c.

¶ Also if there be lord mene and tenant, and
the tenaunt is an abbot that holdeth of the
mene by certain seruices perelye the which
hath no cause to haue a quittance against his
mene for to bring a writ of mene &c. In this
case if the mene confirme the state that the ab
bot hath in the land, to haue & to hold the lād
vnto him and his successors in frank almoyn
or free almes &c. In this case this confirmacion
is good.

is good, & the the abbot holdeth of the mene in frank almoygn, and the cause is for thys, that no new seruice is reserued for al the seruices specially specified be extinct & nothig is reserued to the mene, but the abbot shall hold of the land, & that was before the confirmaciō. for he ỹ holdeth in frāh almoygn ought to do no bodely seruice so ỹ by such confirmaciō it appereth that the mene shal reserue vnto him no new seruice, but ỹ the lādes shalbe holden of him as it was before & in this case the abbot shal haue a writ of mene if he be distrayned in his defaute by force of the sayd cōfirmacion where parcase he might not haue such a writ before &c.

¶ Also if I be seised of a villain as if a villayn in grosse, & another taketh him out of my possessiō clayming hi to be his villain & after I cōfirme vnto hī the state that he hath in my villain, this cōfirmaciō semeth voyd, for this ỹ none may haue possessiō of a mā as of a villain in grosse & in so much that he to whō the confirmaē was made was not seysed of hi as of hys villain at the time of the confirmaciō, such confirmaē is void. but in this case if such wordes wer in the dede. Sciatis me dedisse & confirmasse tal' &c. talem villanum meum, this is good, but this shal cure by force & way of graūt, & not by way of confirmacion &c. Also sometime these verbes dedi & concessi) enure by waye of extyngupchement of the thing geuen or graunted. As a tenaunt holdeth of his

of hys lord by certayn rent, and the lorde by his dede graunteth to the tenant and to hys heyres the rent. &c. thys shall enure to the tenant by waye of extinguishment, for by thys graunt the rent is extinct. In this same maner it is where one hath a rent charge of certayn land, and he graunteth to the tenaunt of the land the rent charge and the cause is for thys that it appeareth by the wordes of the graunt that the will of the donour is that the tenant shall haue the rent &c. in so much that he may haue no rent out of hys own lande, for thys the dede shalbe vnderstand and take for the most aduauntage and auayle of the tenant that it may be, and that is by way of extinguishment. Also if I let land to a man for terme of peres & after I confyrme hys estate without moe wordes put in the dede, he hath no greater estate but for terme of peres as he had before but if I release to hym my ryghte that I haue in the land without mo wordes put in the dede, he hath estate of franke tenement and so mayst thou chyld vnderstand great diuersities betwene releasees and confyrmacions. And if I be within age and let land to one for terme of .xx. peres, and he graunteth the land for terme of .x. peres so that grant is but parcel of his terme. In this case when I am of full age if I release vnto the graunte of my lessee &c. Whys release is voyde, for this that there is no priuite betwene hym and me. But if I confyrme hys estate then thys confyrma-

fyrmacion is good, but if my lessee graunt all hys estate to another, then my release made to the grauntee is good and effectuall. Also if a man graunt a rent charge out of hys land to another for terme of hys lyfe, and after I confyrme hys estate in the sayd rent to haue, and to hold to hym in fee tayle, or in fee symple, thys confyrmacion is voyd as to enlargeing of hys estate for thys that he that confyrmed had no reuercion in the rent, but yf a manne leyled in fee of rent seruice or of rent charge, and he graunteth the rent to another for term of lyfe and tenant attorneth, and after he confyrmeth the estate of the grauntee in fee tayle or in fee symple, thys confyrmacion is good as to enlarge his estate after the wordes of the dede of confyrmacion, for thys that he that cõfyrmed the estate at the tyme of the confirmacion hadde the reuercion of the rent &c. but in hys case aforesayd, where a man grauntеth a rent charge to another for terme of lyfe, if he will that the grauntee shall haue estate in the tayle or in fee, hym behoueth that the dede of the grauntee of the rent charge for tearme of lyfe, be surrendred or councelled, and then to make a new dede of suche a rent charge to hym and to take to the grauntee in the tayle or in fee. Ex paucis dictis plurima intendere potes.

Attornement.
Capi. x.

Attorne-

Attornement is if ther be lord & tenant and the lord will graūt by his dede the seruice of his tenāt to another for term of yeres or for term of life or in tayle or in fee hī behoueth ỹ the tenant attorne to the graunte in the life of the grauntour by force & vertue of the graūte or otherwyse the graunt is voyd and attornement is none other thyng in effect, but when the tenant hath heard of the graūte made by hys lorde, that thesame tenaunt by word agree to the sayd graunt, as to say to the graūtee, I agree me to the graunt made to you, or I am wel contēt of the graunt made to you &c. but the more common attornement is to say, syr I attorn to you by force of thesame graūt or I become your tenant &c. or to deliuer vnto the graunte .i.ō.ob. or ferthing by wape of attournement. &c.

¶ Also if a man be seased of a maner whiche maner is parcel in demene & parcel in seruice if he will alien in such maner to another, it behoueth ỹ by force of the alienaūt all the tenāts that hold of the alienor as of thys maner &c. attourne to the aliene or otherwyse the seruice abyde continually in the alienour, except tenantes at will, for it nedeth not the tenantes at will attourne vpon such alienacion &c. for this that thesame landes or tenementes that they holde at will dooe passe to the aliene by force of such alienacion.

¶ Also if there be lord and tenaunt, and the tenaunt letteth the tenementes to a man for terme

terme of life the remaynder to another in fee, if ỹ lord graūt the seruices to the tenant for term of life in fee, in this case the tefit for term of life hath fee in the seruices, but seruices be put in suspēce durīg his life but his heires shal haue the seruices after his death, & in that case it nedeth not an attornement, for by the acceptance of ỹ dede of him that ought to attorne, this is attornement in himselfe &c. but where the tenant hath as great & high estate in the tenemēts as the lord hath in the seignory, in such case if the lord graūt the seruice vnto the tenant in fee this enureth by way of extinguishment. Causa patet.

Also if there be lord & tenant and the tenāt maketh a lease to one for terme of life, sauing the reuerc̄ vnto him, if the lord graūt the seignory to the tefit for term of life in fee, in this case it behoueth ỹ he in the reuercīō attorne to the tefit for term of life by force of ỹ graūt or otherwise the grant is voyd for this that he in the reuercion is tenant vnto the lord.

Also if there be lorde and tenaunt, and the tenaunt holdeth of the lorde by twenty mes of seruices, and the lord grauntth his seignory to an other if the tenaunt paye or dooe aye of the seruyce to the grauntee, thys is a good attournement of, & for the seruices though that the tenauntes entente was to attourne but of thesame parcell, for thys that the seygnyorye is an holye thynge, though

that

that there be diuers manner of seruices that the tenant ought to doo.

¶ Also if there be lord and tenaunt and the tenaunt holdeth of the lorde by many maner of seruices and the lord granteth the services to another by fyne, yf the grauntee sue a Scire facias out of the same fyne for any parcell of the seruices and hath iudgement to recouer this iudgement is a good attornement in the law for all the seruices.

¶ Also if the lord of the rent graunteth the seruices vnto another, and the tenaunt attorneth by a peny and after the graunte distrayneth for rent behynd, and the tenant to hym maketh rescous In thys case the grauntee shall not haue assyse of the rent but he shall haue a writ of rescous for that the gyft of the peny was but by way of attornement. But if the tenant had geuen vnto the grauntee the sayd peny as parcel of the rent or an halfe peny or a farthing by waye of seisin of the rent, then thys is a good attornement and also is a good seisin to the graunt of the rent. And then vpon such rescous the graunt shall haue assise &c.

¶ Also if a man let tenements for terme of yeres by force of which the lessee is seised, & after the lord graunteth by his dede of the reuercion for terme of lyfe or in tayle or in fee, it behoueth hym in this case that the tent for terme of yeres attorne, or otherwyse nothing passeth such grant by such dede, and if in this

case the

the tenaunt for terme of yeares attourne to the graunte, then by and by palleth the frankstenement on the graunte by luche attournement without any liuere of seisin. &c. for thys if any liuere shalbe made or nedeth to be made in luche case, then the tenaunt for terme of yeares shalbee at wyne of the liuere of seysyn out of his possession which should be agaynst reason.

¶ Also yf lande be let to a man for tearme of yeares the remaynder to another for terme of lyfe reseruyng to the leasour a certayn rent by yeare and liuere of seisyn is made vppon this to the tenaunt for terme of yeres, if he in the reuercion in luche case graunt his reuercion vnto another. &c. and the tenant that is in the remaynder after the terme of yeres attorneth this is a good attornement, and he to whome the reuercion is graunted by force of such attornement shal distrayne the tenant for the yeres for the rent due after such attournement though the tenant for terme of yeres neuer attourned vnto hym, and the cause is for that, wher the reuercion is dependaunt vppon the nature of frankstenement, it sufficeth that the tenaunt of the frankstenement atturne vppon suche graunt of reuercion. &c. and it is to wyte that where a lease for terme of yeres or for terme of lyfe or a gyft in the tayle is made vnto any man reseruing to suche a leasour or donour certayn rent, yf such a leasour or donour graunt his reuercion to another, & the tenant

of the lande attourne, the rent palleth to the grauntee though in the dede of the graunte of reuertion, no mencion is made of the rēt, for this that the rent is incident to the reuertion in such case, and not econuerlo, for yf a manne wyll graunt the rent, in suche case vnto another, reseruing to hym the reuertion of the land though the tenaunt attourne to the grauntee this shalbe but a rent leche. &c.

¶ Also yf a man let lande vnto another for terme of lyfe, and after suche lease he confyrmeth by a dede the estate of the tenaunte for terme of lyfe, the remaynder to another in fee, and the tenant for terme of lyfe, acceptet hythe dede, then is the remaynder in dede to hym to whom the remainder was geuen or limyted in the same dede, for by the acceptaunce of the tenant for terme of life of the same dede this is a graunt of hym and so an attournement in lawe, but yet he in the remaynder shall haue none accīo of waste nor other benifite by such remaynder, but yf that he haue the same dede in his hande, by whyche the remainder was granted vnto hym, and for this that in suche case the tenaunt for terme of lyfe wyll retayne to hym the dede, to the entente that he in the remaynder shall haue no accion of waste against hym, for thys that he maye not come to haue the possession of the dede et cetera. It shall bee good in suche case for hym in the remaynder that a dede enderted bee made by hym that wyll make the confyrmacion, and

the

the remaynder ouer et cetera. And that he that maketh suche confyrmacyon delyuer a parte of the indenture to the tenaunt for terme of lyfe, and the other parte to hym that hath the remaynder. And than he by shewing of the parte of the endenture maye haue an accion of waste agaynst the tenaunt for terme of lyfe, and all other aduauntage that he in the remainder may haue in such case.

¶ Also yf two ioyntenauntes bee, whyche letteth lande to another for terme of lyfe, reseruyng to them and to theyr heyres a certayne rente by yeare. In this case yf one of the twoo ioyntenauntes in the reuercion release to the other ioyntenaunt in the same reuercion, this release is good, and he to whom the release is made, shall haue only the rent of the tenaunt for terme of lyfe, and shall haue a wryte of waste agaynst them though he neuer attourned by force of suche release, and the cause is for the priuilege that once was betweene the tenaunte for terme of lyfe, and them in the reuercion. In the same maner, and for the same causeit is where a man letteth lande to another for terme of his life the remaynder to another for terme of hys lyfe, reseruyng the reuercion to the lessour, in hys case yf he in the reuercion release to them in the remaynder, &c. And to hys heyres all hys ryght. &c. Then he in the remaynder hath a fee et cetera. And shall haue a wryte of waste agaynste the tenaunte for terme

of lyfe wythoute any attournement of him.&c

Also yf a leafe be made for terme of lyfe the remaynder vnto another in the tayle, the remaynder ouer to theryght heyres of the tenaunt to terme of life, in this cafe if the tenãt for terme of lyfe graunt his remaynder in fee to another by his dede, that remainder by and by paffeth by his dede wout any other attornemẽt. For yf any ought to attourne, in this cafe it fhould be the tenant for terme of lyfe. And it wer in vain that he attourne vpon his owne graunt. &c.

Also yf there be Lorde and tenaunt and the tenaunt holdeth of lorde by certayne rent and knyghtes feruices yf the lorde graunt the feruices of the tenaunt by fyne, the feruices bee by and by in the grauntee by force of the fyne, but yet the lorde maye not dyftrayne for any parcell of his feruices without attornement But yf the tenaunt dye his heyre beyng within age the Lorde fhall haue the warde of the bodye of the heyre, and of the lande, &c. howbeit that he neuer atturned For this that the feygniory was in the graunt mayntenant by force of the fyne. And alfo in fome cafe yf the tenaunt dye without heyre, the lord fhal haue the tenaunty by way of eſchete. In the fame maner it is yf a man graunt the reuercyon to his tenaunt for terme of life to another by this the reuercion paffeth not to the grauntee by force of the fyne, but the grauntee fhal neuer haue accion of waſt without attournement.&c

But

But yet yf the tenaunt for terme of lyfe alien in fee the grauntee may enter. &c. For this that the reuercion was in hym by force of the fine, and luche alienacion was to his disheneryaunce. But in this case where the lord grauneth the seruices of his tenaunt by fyne, yf the tenaunt dye, his heyres beyng of full age the graunte by the fyne shall not haue the reliefe nor neuer shall distrayne for the relyef except there had bene an attournement of the tenant that dyed. &c. for of such thynges that lyeth in plee selle vpon the which a writ of replegiare is sued. &c. a manne ought to auow the taking good, and ryght wyse. &c. there ought to bee attournement of the tenaunt. Howbeit that the grant of such seruices be by fyne. But to haue parde of landes, and tenementes so holde during the noneage of the heyre or of them to whome by waye of eschete there nedeth not anye plee selle. &c. But an enter in the lande by force of the ryght of the seignioury that the graunt hath by force of the fyne. &c.

Also in auncyent borroughes or Cytyes other tenementes within the same borroughes or cities, been deuisable by testament by the custome, and the vse. &c. if in suche borrough or cite a man be seased of rent seruice or of rent charge, and he deuiseth such rent or seruyce to another by his testament and dyeth. &c. In this case he to whom the deuyse is made maye distrayne for the rent or the seruices behinde, howbeit that the tenaunt neuer attorned. In

the same maner it is, where a man letteth suche tenementes deuysable to another for terme of lyfe, or for terme of yeares, and deuyseth the reuercyon by his testamente to another in fee or in fee tayle and dyeth, and anone after that the tenaunt maketh waste, he to whome the deuyse was made shal haue a writ of waste howbeit that the tenaunt neuer attourned, the cause is for this that the wyll of the deuysour made by the testamente shall bee parfourmed after the intent of the deuisour, and so the effect of thys lyeth vpon the attornment of the tenaunt. &c. Then parcase the tenaunt would neuer attourne, then the wyll of the deuisour should neuer bee parfourmed, & therfore the deuise shall distrayne or haue an accion of waste. &c. without attournement, for if a man deuyse suche tenementes to another by hys testament (habendū sibi in perpetuum) and dyeth and the deuise entreth he hath a fe simple, causa qua supra and yet yf a dede of feoffement were made to hym by the deuisour of the same tenement (habendū et tenendū sibi imperpetuū) yf lyuere and seysin were neuer there vpon made, he shall haue none estate but for terme of lyfe &c.

Also yf a manne seased of a Manoure whyche is parcell in demeane and parcell in seruices and thereof bee dyssepled but the tenaunte with holden of the Manour, neuer attourne to the disseisour in this case howbeit that the disseisor die. &c & his heire is in by

cyn

rent yet may the disseisi dystrayne for the rent beyng behynde and haue the seruice but if the tenauntes come to the disseysour and saye we become your tenauntes. &c. or other wyse may by attourneiment to hym &c. and after the disseysour dyeth seased. &c. then the disseisy maye not dystrayne for the rent. for thys that all the maner descendeth to the heyre of the disseisour But yf one hold of me by rent seruice which is a seruice in grosse and another that no right hath claymeth the rent and receiueth and taketh the same rente of my tenaunt by coarcion of dystresse or by other forme and so disseiseth me by takyng suche rente, howbeit that suche a disseisour. dye seased by suche takyng of the rent yet after his death I may well dystrayne for the same rente beyng behynde before the death of the disseysour, and after his death and the cause is for this, that suche is not my disseisour but by election at my will howbeit that he take the rent of the tenãt I maye at all times distrayne my tenaunt for the rent behynde et cetera so it is to me but as I wyll suffer the tenaunt to be by so much more behynde of paymente to me of the same rente, for the payment of my tenaunt to another to whome he ne oughte to paye is no dyseysyn to me nor shal not putte me oute of my rente wythoute my wyll and election, for howe bee it that I maye haue sayle agaynst suche a taker et cetera, yet thys is at my election yf I wyll take hym as

my diſſeyſour or not ſo that ſuche diſcentes of rentes in groſſe ne putteth not out the lordes fro their dyſtreſſe but that at eche tyme they maye well dyſtrayne for the rent behynd, and in this caſe yf after the deceaſe of hym that ſo wrongfully take the rent. I grant by my dede the ſeruices to another and the tenant attorneth, this is good ynough, and the ſeruyce by ſuche graunt, and attournement incontinent be in the grauntee. &c. But otherwyſe it is, where the rent is parcel of the maner and the diſſeaſour dyeth ſeaſed of the whole maner, as in the caſe beforeſayde.

¶ Diſcontinuaunce. Cap. xi.

Dyſcontinuaunce is an auncyent woorde in the lawe and hath diuers ſygnifications. but as to one intent it hath ſuche a ſygnification, that is to ſaye where a man hath aliened to another certayn landes or tenementes and dyeth and another hath right to haue theſame landes or tenementes, but he ne may enter in them becauſe of ſuche alienacion. &c. As yf an abbot ſeaſed of certayn landes and tenementes in fee, and he aliyeneth theſame landes and tenementes to another in fee taple or for terme of lyfe, and the abbot dyeth his ſucceſſour may not enter in theſame landes or tenementes, howbeit that yf that he hath ryght to haue them as in the ryght of the houſe, but he is putte to his accion to recouer theſame landes or tene-

menes

mentes whiche is called a writ de ingressu sine assensu capituli.

Also yf a manne sealed of lande as in the ryght of hys wyfe. &c. and thereof enfeoffeth another. &c. and dyeth the wyfe ne maye not enter but she is put vnto her accion the whiche is called cui in vita.

Also yf tenaunt in the tayle of certayne lande and therof enfeoffe another. &c. and hath issue and dyeth. &c. his issue maye not enter in the lande, howbeit that he hath ryght and title to that but that he is put to his accio that is called a fozmedon in discendze.

Also yf there be tenaunt in the tayle and the reuert is to the donour, and to his heires yf the tenaunt make a feoffement. &c. and dyeth without issue, he in the reuercion maye not enter, but is put to his accion of fozmedō in the reuerture, and in the same maner it is where the tenaunt in the tayle of certain land where the remainder is to another in the tayle & to another in fee, yf the tenaunt in the tayl alieneth in fe oz in fe taile. &c. & aft dyeth without issue they in the remaindze may not enter, but be put to their writ of fozmedon in the remaindze. &c. and foz this that by force of suche feoffemt & such alienacions in the cases afoze sayd & in like cases they which haue tytle and right after the death of such a feoffoz oz alyenoz may not enter; but be put to their accions, vt supza. Therfoze such feoffements and alyenacions be called discontinuances.

Also

¶ Also yf tenant in the tayle be disseased & he releaseth by his dede to the dissey.or & to hys heyres all the ryghte that he hath in the same lande. this is no discontinuaunce for thys that nothyng of ryght passeth to the disseisour but for terme of lyfe of the tenant in the tayle that made there lease.&c. But by the feoffement of tenaunt in the tayle a fe symple passeth by these same feoffement by force of syuere of seysin &c. but by force of a release passeth by the same feffement by force of liuere of seisyn.&c. but by force of a release passeth. but the ryght that he maye lawfully and ryghtfully release without hurte or damage to other parsons which therto haue right after his decease.&c. and so it is gret diffirie betwene a feoffement of the tent the tayl & a relese of ỹ tent the tail. But it is sayd ỹ yf tenant in the taile in this case releaseth to the disseasour & bindeth hym & his heyres to warrantise.&c. and dyeth, and this warrantye descendeth to his issue, then that is a discontinuaunce because of warrantise.&c. But if a man haue issue a sonne by hys wyfe dieth and after he taketh another wife and the tenementes be geuen to hym and his seconde wyfe, and to the heyres of theyr twoo bodyes engendred, and they haue yssue another sonne, and than the seconde wyfe dyeth, and after the tenaunt in the tayle is dysseysed and he releaseth to hys dysseisour all hys right et cetera, and byndeth hym and hys heyres vnto warrantyse, and dyeth, thys is no dyscontinuaunce

to

to the issue in the tayle by the seconde wyfe but he maye well enter. &c. for thys that the warrantyse descended to hys elder brother, that hys father hadde by his fyrst wyfe. In thesame maner where tenementes be descendable to the younger sonne after the custome of boroughe Englyshe been tayled. &c. and the tenaunt in the tayle hath yssue two sonnes & is disseased and he releaseth to his disseasour all his right with warrantise and dyeth, the ponger sonne maye enter vpon the disseysour notwithstandyng the warrantyse, for this that the warrantise descendeth to the elder sonne, for alway the warrantise descendeth. &c. to hym that is heire by the common law.

¶ Also yf an abbot bee disseased, and he releaseth to the disseisor with warrantile, this is no dyscontinuaunce to hie successour, for this that nothyng passeth by this release but the ryght that he hath duryng the tyme that he is abbot, and this warrantyse is expired by his prouision or by his death.

¶ Also yf tenaunte in the tayle bee seased of certayne lande, and he letteth the same lande for tearme of yeares by force of which lease the lessee is in possession to which possession the tenaunt in the tayle by hys dede releaseth all his righte that he hath in the same lande to the lessee and to hys heires for euer, thys is no dyscontinuaunce, but after the decease of the tenaunte in the tayle hys yssue maye well enter, for thys that by

ſuche releaſe nothing palleth but for terme of
ife of the tenaunt in the tayle. In the ſame
maner yf the tenaunt in the tayle confyrme
the eſtate of the leſſee for terme of certayne
peres to haue and to holde to him and to his
heyres thys is a diſcontinuaunce for this that
nothing palleth by ſuch confirmacion, but the
eſtate that the tenaunt in the tayle hadde for
terme of his life.

Also yf tenaunt in the tayle by his dede
graunt to another all his eſtate that he hath
in the tenementes intayled to hym to haue &
to holde all his eſtate to the other and to his
heyres for euer and delyuereth ſeyſin accor-
ding. In this caſe the tenaunt to whom the a-
lienacio was made hath none other eſtate but
for terme of life, and ſo it may well be proued
that the tenant in the tail may not grant ne a-
lien ne make any rightfull eſtate of the frank
tenement to another parſon but for terme of
his owne life. &c. for yf I geue certayne lande
in the tayle to a man, ſauyng the reuercion to
me, and after the tenaunt in the tayle enfeof-
feth another in fe, the feoffe hath no ryghte e-
ſtate in the tenementes for two cauſes. One
is for that by ſuch feoffement my reuercion is
diſcontinued which is a wronger acte & not a
rightfull act. Another cauſe is if the tenāt dye
& his iſſue ſueth a writ of formedon againſt the
feoffe, the writ ſhal ſay & alſo the declaracio
the feffe wrongfully hi deforced &c. Ergo if he
with wrōg hi deforced he had no right eſtate.

Alſo

¶ Also yf lande be let to a man for terme of hys lyfe the remaynder to another in the tayle yf he in the remaynder wyll graunt hys remaynder to another in it by his dede, & the tenaunt for terme of lyfe attourneth, thys is no discontynuaunce of the remaynder.

¶ Also yf a man be tenaunt in the tayle of auowson in grosse or of common in grosse, yf he by his dede wyll graunt the auowson or the common to another in fee this is no discontynuaunce, for in such case the graunte hath no estate but for terme of the tenaunt in the tayl that made this graunt. &c. Note wel that such thynges as passe by waye of graunte made by dede, and not by act in the countrey. &c. Such graunt maketh no discontinuaunce as in the case aforesayde and other lyke cases. &c. And albeit that suche thynges be granted in fe, yf ne leuied in the kynges court. &c. yet thei make no discontinuaunce. &c.

¶ Also yf a man be seased in tayle of landes deuisable by testamēt. &c. and he deuiseth it to another in fee, and dieth, and the other entreth this is no discontinuance, for this that no discontinuaunce was made in the lyfe of the tenaunt in the tayle. &c.

¶ Also if an abbot haue a reuercion or a rēt seruice or a rente charge, and wyl graunt that reuercion rent seruice or rent charge to another in fe and the tenāt attorneth. &c. Thys is no discōtinuance. In the same maner it is wher an abbot is seased of auowsō or of such thinges

that

that passe by way of graunt without liuere of seisin. &c

¶ Also yf there be graunde father tenaunt in the tayle father and sonne, and the graund father is disseased by the father, and the father maketh a feoffement in fee without warrant tyse and dyeth, and after the graundfather dyeth, the sonne maye well enter vppon the feoffe for thys that thys was no discontynuaunce in so muche that the father was not seased by force of the tayle at the tyme of the feoffement. &c. but was seased in fee by disseysin made to the graundfather.

¶ Also yf a woman inherite haue an husband within age, whiche maketh a feoffemente of the tenementes of the wyfe and dieth, it hath been questioned if the wyfe maye enter or not And it seemeth to some men that the entre of the wyfe after the death of her husbande shal be lawful in this case, for when her husbande made such a feoffement. &c. he myght wel enter notwithstanding suche feoffement during the couerture, and he myght not enter in his own right but in the right of his wife. &c. Ergo such right that he had to enter in the right of his wife. &c. that right of entre abideth to the wife. &c. after his decease, & it hath been sayde that if two iointenantz being within age make a feffement in fee & one of the children dieth & that other survyueth, insomuche ỹ bothe children might enioinctly in their liues, this ryghte is engroweth al to hi ỹ survyueth, & so he maye enter into the hole. &c.

¶ Also

Also the heire of the husband that made the
feffement within age may not enter, for ther
no right descendeth to such an heir in the cose
aforesaid for this that the husband had neuer
any thing but in the right of his wife. And al-
so when a childe maketh a feoffement beyng
within age, this shal neuer greue nor hurte hi
but that he may well enter. &c. And this shuld
be against reason that such a feffemente made
by him that was not able to make such a feffe-
ment shall greue or hurt other to wyll other
of theyr entrees. &c. And for these causes it se-
meth to some that after the death of suche an
husbande so beyng within age at the tyme of
the feoffement. &c. that hys wyfe maye well en-
ter. &c.

Also of a woman inheritrice taketh an hus-
bande and hath issue a sonne, and the husband
dieth, & she taketh another husband, and that
second husband letteth the land that he hath i
the right of his wife to another for terme of
his life, & after the wife dieth, & after the tenit
ayme of life surrendreth his estate to the se-
cond husband. &c. Enquere if the sonne of the
wife may entre or not in this case vpon the se-
cond husband during the life of the tenant for
terme of life. &c. But it is clere lawe in this
case that after the death of the tenaunte for
terme of life, the son of the wife continue may
well entre, for this ỹ the discontinuance ỹ was
made al only for terme of life is determined. &c. by
the death of the same tenãt for terme of life. &c

Also

Also yf the parson or vicar of a churche alyen certayn landes or tenementes parcell of his glebe. &c. To another in fee and dyeth or resygneth. &c his succellour may wel enter. Notwithstandyng luche alienacion as it is layd in a Nota. Anno. ii. H. iiii. Termino Michaelis quod sic incipit nota quod dictum fuit pro lege. In a wrytte of accompte brought by the mayster of the colege that yf a parsone or vycare graunt certayne landes that is of the ryght of hys churche to another and dyeth or chaunceth that his succellour maye enter. I trowe that the cause is for this that the parson or vicare that is seased. &c. In ryght of the symple dwellyng in none other parson. And for this cause his succellour maye well enter notwithstandyng luche alienacion. &c. for a bishoppe maye haue a wrytte of ryght of tenure of ryghte of hys Bysshoppryche, for that the ryghte of fee symple abydeth in hym and in hys chaptter, and a Deane maye haue a wrytte of ryghte et cetera, for thys that the ryghte abydeth in hym and his chapiter, and an abbot maye haue a wrytte of ryght, for that the right abideth in hym, and in hys convent, et sic de aliis talibus consimilibus. But a parsone or a vycare maye not haue a wrytte of ryght. &c, but the hyghelle wrytte that he maye haue is a wrytte, de turis de the whyche is a great proofe that the ryght of fee symple is in obeyaunce. that is to say all onely in the remembraunce entendement

and consideration of the lawe, for me semeth that such a thinge in such a ryght that is sayd in diuers bookes to be in by obeysaunce is as muche to saye in latyn. ℌ. talis res vel tale rectum que vel quod non est in homine ad tñc superstite sed tãto modo est et cõsistit in consideratione et intelligentia legis. ꝛc. et quidem alii dixerunt talem rem aut tale rectum fore in nubibus. ꝛc.

But I suppose that they vnderstand by these wordes in nubibus. ꝛc. I haue sayed before.

¶ Also if a parson of a churche dye, nowe the franketenemẽt of the glebe of the parsonage is no man duryng the time that the parsonag is voyde, but is in obeysaunce, that is to say, in consideration and intelligence of the lawe, vntil another be made parson of the same churche, and immediatly when an other is parson the franktenement in dede is to hym as successoure.

¶ Also some men paraduenture wyll argue and saye, that so muche that the parson wyth the assent of the patrone and ordinarye maye graunt a rent charge out of the glebe of his parsonage in fee, & so charge the glebe of the parsonage perpetualye. Ergo they haue fee symple, or two or one of them hath fee symple at the leaste. ꝛc. to this it may be aunswered that it is principle in lawe, that of euery land there is a fee symple in some man, or elles the fee symple is in obeysaunce. ꝛc. And another principle is, that euery lande of fee simple,

ꝛc. may be charged wyth a rente charge in fee, by one way or by another. ꝛc. and whan ſuche rent is graunted by the dede of the parſon the patron and the ordinarye in fee, none ſhall haue no preiudice or loſſe by force of ſuch graunt. But the grauntours in their liues, and the heyre of the patron, and ſucceſſour of the ordinary after their deceaſes, and after ſuche charge if the parſon dye, his ſucceſſour maye not come to the ſayde churche to be parſon of the ſame churche by the lawe. But by preſentment of the patron and admiſſion and inſtitution of the ordinary. ꝛc. And for this cauſe it behoueth that the ſucceſſour holde him conth and agreed with that whiche his patron and ordinary lawfully haue done before. But the cauſe that ſuche rente charge is gone for thys that they whiche had entrees in the ſaid churche, that is to ſaye, the patron after the lawe tempoꝛal, and the ordinary after the lawe ſpirituall were aſſented or parties vnto ſuche a charge. ꝛc. ¶ thus ſemeth the very cauſe that ſuch glebe may be charged in perpetuite. ꝛc.

¶ Alſo if a bychop alyene landes whiche be parcell of hys bychoppricke, and dyeth, this is a diſcontinuaunce to hys ſucceſſoure, for thys that he ne maye not enter, but is put to hys writt. De ingreſſu ſine aſſenſu capituli. ꝛc.

¶ Alſo if a Deane alyen lande parcell of his Deantye and dyeth, hys ſucceſſour ne may not enter, but he may haue a writ. Et ingreſſu ſine aſſenſu epiſcopi et capituli. ꝛc.

But if the Deane, and the chapitre haue lande to them, and to their succeſſours in commen. &c. Howe be it that the Deane alyen ſuche landes, his ſucceſſoures maye well enter for this that the francke tenemente at the tyme of the alyenacyon was as well in the Chapitre as in the deane. But where the Deane is ſole ſealed as in right of his deanry, than ſuche alienacion is diſcontinuaunce to his ſucceſſoure, as it is afore ſayde. Alſo ſome men will argue and ſaye that if an Abbotte and his Conuente be ſealed in their demeane, as of fee of certaine lande to them and to their ſucceſſors &c. and the Abbot without aſſente of hys Conuente alieneth the ſame lande vnto an other, and dieth, this is a diſcontinuaunce to his ſucceſſours. &c. and by the ſame they will ſay, that where a Deane and a chapitre be ſealed of certaine lande to them or to their ſucceſſoures, if the Deane aliene the ſame landes. &c. this ſhall be a diſcontinuaunce to his ſucceſſours. So that his ſucceſſour ne maye not entre. &c. To this maye be anſwered, that there is great diuerſitie betwene the ſayde two cauſes, for whan an Abbote, and the conuente be ſealed. &c. yet if they bee diſſeyſed the Abbotte ſhall haue aſſyſe in hys owne name wythoute the nampnge of hys Conuente. &c. And if a manne maye or will ſue a breue de recto quod reddat of the ſame Landes whan they bee in the handes of the Abbotte and hys Conuente, it behoueth that ſuche an

accion be sued agaynst the Abbot onely without nampyng of the couent. &c. For this that al they be dead parsons in the lawe, saue onelye the Abbot that is Soueraygne. &c. and this is cause of the soueraygntie. &c. for elles he shold be as one of the other monkes of the couent. &c. But the deane and the chapitre be no dead parsons in the lawe. &c. For eche of them may haue an Accion by him selfe in diuers cases, and of suche landes or tenementes which the Deane and chapitre haue in commune. &c. if they be diseased, that the Deane and the chapitre shall haue assyse, & not the deane alone, and if an other wyll haue an Accion reall of such landes or tenementes agaynst the deane &c. it behoueth hym to sue agaynste the deane and chapitre, and not agaynst the deane alone &c. and so appeareth great diuersitie betwene these two cases. &c.

¶ Also if the maister of an Hospitall discontinue certayne lande of hys hospitall, hys successours ne may not enter, but he is put out by his writte. De ingressu sine assensu contra formam statuti, and all such writs do plainly appere in the register. &c.

Rempter. Capi. xii.

REmpter is an auncient terme in the lawe and it is where a manne hath two titles to lande or tenementes, that is to saye, of an elder tytle, and an other of the latter title, and he cometh to the lande by the latter tytle, he

the Lawe adiudgeth him to bee in by force of the elder title, for this that the elder title is the more sure title, and the more worthy title, and then whan a man is iudged in by force of the more elder title, this is vnto hym sayde a remitter, for this that the lawe shall admit to be in the lande by the elder title, as if the tenaunte in the tayle, discontinue the tayle, and after he disseaseth his discontinue, and so dyeth seased, where by the tenementes descend to his issue, as to his coseyn inheritable by force of the tayle, in this case this is to him to whō the tenementes descende, whiche hath ryght by force of the tayle, a Remitter in the tayle taken. for that that the lawe shall put and adiudge hym to be in by force of the tayle, which is hys elder title, for if he shall be in by force of distent, then the discontinue maye haue a writte of entre vpon the disseasyn in the per, against him, and recouer the tenementes, and hys damages. but in so muche that he is in by force of the tayle, the title and the intresse of the discontinue, is all vtterlye adnulled and defeated. &c.

Also if tenaunt in the tayle in feoffe in fee, hys sonne or hys coseyn inheritable by force of the tayle, the whyche sonne or coseyn at the time of feoffement is within age, and after the tenaunte in the tayle dyeth, and he to whom the feoffement was made in hys heyre by force of the title in the tayle, thys is a remytter to the heyre in the tayle, to whom the feoffe-

ment is made. For howe be it that during the life of the tenaunt in the taile that made the feoffemente suche heire shall be adiudged by force of the feoffement, yet after the death of the tenaunte in the tayle, the heyre shall be adiudged in by force of the tayle. &c. and not by force of the feoffemente, and thoughe that suche an heire was of full age at the tyme of the deathe of the tenaunte in the taile that made the feoffemente, this maketh no matter if the heyre were wythin age at the tyme of the feoffemente made to hym, and if suche an heyre beynge within age at tyme of the feoffemente commeth to full age lurynge the tenaunte that made the feoffemente, and so beinge of full age, he chargeth by hys dede the same lande wyth a comen of pasture, or wyth a rente charge, and after the tenaunte in the tayle dyeth. Nowe it semeth that the lande is discharged of an other estate in the lande, than he was at the time of the charg made, in so muche that he is in his remitter by force of the taile, and so the estate that he hadde at the tyme of the charge is vtterlye defeated. &c.

Also a principall cause is, whye suche an heire in the cases aforesaide, and other cases semblable shall be sayde in hys Remytter, is for this that there is no parson against whom that he maye sue his writ of formedon, for against him selfe he maye not sue, and he maye not sue against nonother, for none other is tenaunte in the frankle tenement, and for the

cause

cause the lawe adiudgeth him in his remytter, that is to saie, in suche plight as he had lawfullye recouered the same lande agaynste an other.

¶Also if lande be tayled to a man, & his wife, and to the heire of their two bodies engēdred the which haue issue a daughter, and the wife dieth, and the husbande taketh another, and hath issue an other daughter, and discontinueth the tayle, and after he dissey.eth the discontinue, and so dieth seased. now the lande descendeth to the two daughters. In this case is to the elder dough.er that is inheritable, this is a remytter, but of the halfe, and as to the other halfe, she is put to her accion of formedon against her sister, for in this case two sisters be not tenaunts in percenary, but be tenaunts in cōmen, for this that they be in by diuers titles, for the one sister is in her remitter by force of the tayle, as to that that vnto her belongeth, And the other sister is in as to that, that belongeth to her in fe simple by the discent of hir father. In the same maner it is if the tenaunt in the tayle enfeoffe his heyre apparaunt in the tayle being the heyre within age, and another tointenaunt in fe, and the tenant in the tayle dieth. Now the heire in the tayle is in his remytter as to the half, & as to ꝑ other half he is put to his writ of formō. &c ¶Also if tenāt in the tayle enfeoffe his heire apparāt, the heir being of ful age at time of ꝑ feoffemēt & after the tenāt in tayle dieth this is

no remitter to the heyre, for thys that it was hys owne folye, that he beynge of full age wolde take suche feoffement. &c. But suche foly may not be adiudged in the heyre beynge wythin age, at the tyme of the feoffement. &c.

¶ Also if tenaunt in the tayle enfeoffe a woman in fee, and dyeth, and hys issue wythin age taketh the woman to wyfe, this is a remitter to the chylde, and the wyfe than hath nothinge, for this that the husband and the wife ben but one parson in the lawe. And in that case the husbande may not sue a writ of formedon, but if that he wyll sue agaynste hym selfe, the whiche shalbe inconuenient, and for that the lawe iudgeth the heyre in his remitter for this that no foly may be areted to him beynge wythin at the tyme of the spousayles. &c. And if the heyre be in hys remitter by force of the tayle, it folowyeth by reason that the wyfe hath nothing. &c. for in so muche that the husbande and the wyfe be but one parson, the lande maye not be seuered by halfes, and for suche cause the husbande is in hys remitter of the whole. But otherwyse it is, if suche an heyre be of full age, at the tyme of the spousayles, that than the heyre hath nothinge but in the ryght of his wife.

¶ Also if a woman seased of certayne land in fee, taketh an husbande, the whyche alieneth the same lande to an other in fee, and the alienee letteth the same lande to the husbande and the wyfe for terme of their two lyues, sa-

uyng

ynge the reuerſion to the leſſoure, and to the heyre, in thys caſe the wyfe is in hys remyt-ter, and ſhe is ſeaſed in dede in her demeane as in fee, as ſhe was before, for thys that the tabynge of eſtate ſhalbe adiudged in the lawe, the dede of the huſbande, and not the dede of the wyfe, ſo that no folye maye be iudged in the wyfe that is couert in ſuche caſe. And in this caſe the leſſour hath nothynge in the re-uerſion for thys that the wyfe is ſeaſed in fee. But in thys caſe if the leſſour wyll ſue an ac-non of waſte agaynſte the huſbande and hys wyfe, for thys that the huſbande hathe made waſte, the huſbande may not barre the leſſor for to ſhewe thys that the tabynge of eſtate made vnto hym and to hys wyfe made a Re-mytter to hys wyfe, for this that the huſband ſtopped to ſaye thys agaynſte hys feoffement, and owne repryſell of eſtate for terme of lyfe to hym and hys wyfe, and yet the leſſour hath no reuerſion, for thys that the fee ſimple is in the wyfe, ſo a manne may ſe a matter in this caſe, that a man ſhall be ſtopped by a matter in dede, thoughe no writynge by dede indent-ed or otherwyſe be therof made. But if an accion of waſte, the huſbande make defaut at the graunde diſtreſſe, and the wyfe prayeth to be receyued, and is receyued, ſhe ſhall well ſhewe all the matter, and how ſhe is in her re-mitter, and ſhall beare the leſſoure of hys ac-tion. For in euery caſe that the wyfe is recey-ued for defaut of her huſbande, ſhe ſhal pleade

and

and haue the same aduantage in pleadyng as
the were a woman sole. And howbeit that the
alienee made the lease to the husbande & his
wyfe by dede endented, yet this is a remytter
to the wife, and though the aliene yelded the
same lande to the husbande and his wife by
fine for terme of their liues, yet this is a re-
mytter to the wyfe, for this that the wyfe co-
uert that taketh estate by fine shall not be ex-
amined by the Justices. And here note well
that when any thinge shall passe fro the wyfe
that is couerte of husbande by force of a fyne
the husbande and his consaunce of right to
another. &c. or make a graunt and yelde to an
other, or release by a fine to an other. Et sic
de similibus where the right of the wife pas-
seth fro the wife by force of the same, the wyfe
in all suche cases shalbe examined before that
the fine be accepted. And such fines cõclude
suche wiues couerte for euer. But where no-
thinge is moued in the fine, but all onely that
the husband and the wife take estate by force
of the same fine, this shall conclude the wyfe
for this that in suche case she shall neuer be
examined.

¶ Also if tenant in the tayle discontinue the
tayle and hath a doughter and dieth, and the
doughter beinge of full age taketh an husbãd,
and the discõtinuaunce maketh a lease of this
to the husbãd & his wife for terme of their li-
ues, this is a remytter in dede of ꝯ wife, & the
wife is in bi force of the taile, causa qua supra

Also

¶Also if lande be geuen to the husband and his wife to haue and to holde to them and to the heyres of their two bodies begotten, and after the husbande alieneth the lande in fee, and taketh againe an estate to hym and to his wife, for terme of their two liues. In this case this is a remptter in dede to the husband and the wife maugre the husbande, it may not be a remitter to the wife, excepte it be a remptter to the husbande, for this that the husband and his wife be but one parson in the lawe, though ỹ the husband is stopped to claime, this to be a remptter in hym agaynste his alienacion and his owne reprisell as it is afforesaide.

¶Also if Lande be geuen to a woman in the tayle, the remaindre to another in the tayle, the remaindre to the thirde in the tayle, the remaindre to the fourthe in fee, and the wyfe taketh an husbande, and the husbande discontinueth the lande of the wyfe, by this discontinuaunce all the remayndres be discontinued. for if the wife dye without issue, they in the remayndre shall haue no remedye, but to sue their writtes of formedon in the remayndre when they come to their tyme. &c. But if after suche discontinuaunce estate bee made to the husbande and his wyfe for terme of their two lyues, or for terme of an others life, or an other estate. &c. for this that this is a remitter to ỹ wife, this is a remitter to al those in the remayndre. &c. for after this that the wyfe that is in her remptter dyeth with-

out

out issue they in the remaynder may enter. &c. wythout anye accion or sute. &c. In the same maner it is of them which haue the reuersion after such tayle. &c.

Also if a man let a house to a woman for terme of her lyfe, sauyng the reuersion to the lessoure, and after one sueth a faynte and faile accion agaynste the woman, and recouereth the house agaynste her by defaute, so that the woman may haue agaynst hym a writ. Quod ei deforciat, after the Statute of westm the second, capitulo. iiii. now is the reuersion of the lessoure discontinued, so that he ne may haue no accion of waste. But in thys case if the woman take an husband, and he that recouereth letteth the house to the husbande and hys wife for terme of their two lines, the wyfe is in her remitter by force of the fyrst lease. And if the husbande and the wyfe make waste, the fyrste lessour shall haue against hym a writ of waste for thys, that in so muche that the wyfe is in her remitter, he is remitted to his reuersion. But it semeth in thys case if he that here cometh by the faile accion, wyll bryngе another writ of waste agaynste the husbande and hys wyfe, the husbande hath no remedy agaynste hym, but to make defaut at the great distresse. &c. And to cause the wife to be discoyued and to pleade the matter agaynst the second lessor, and to sweare that the accion by which he recouered, was faise and fayned in the lawe, & so the wyfe may barre. &c.

Also

¶ Also if the husbande discontinue the lande of his wife, and after taketh estate to hym and to his wyfe, and to the thyrde man for terme of their lyues, or in fee, thys is a remytter to the woman, but as to the moyte. And as for the other moyte it behoueth her after the death of her husbande to sue a Cui in vita.

¶ Also if the husbande discontinue the lande of his wyfe and go ouer the sea, and the discontinuee let the same lande to the womanne for terme of lyfe, and deliuer to her seasyn, & after the husbande cometh and agreeth to that lyueretb her seasyn, thys is a remitter to the woman, and yet if the woman had ben sole at the tyme of her lease made to her, thys should be to her a Remytter, but in so muche as she was couert baron at the tyme of the lease, and the lyuere of seasyn made to hyr, though that she onely take the lyuere of seasyn, thys was a remytter to her, because a womanne couert shall be adiudged as an infante within age in such case. &c. Enquyre in thys case if the husbande when he commeth agayne will disagre to the lease and lyuere of seasyn made to hys wyfe in hys absence if thys shall put the woman fro her remytter.

¶ Also if the husbande discontinue the tenementes of hys wyfe, and the discontinuee is disseased, and after the disseasoute letteth the layde tenementes to the husbande & his wife for term of lyfe, thys is a remytter to the wife but if the husband and the wyfe were of couyn

or

of consent that the dilleylin houlde be made, than it is no remptter to the wife, bicause she is a dilleyloureſſe. But if the huſbande were of couyn and consent to the dilleyiyn, and not the wife, then ſuch leaſe made to the wife is a remptter, bycause that no defaute was in the wyfe.

¶ Also if ſuch a diſcontinuee had made eſtate of free houlde to the huſbande and the wyfe made by endenture vpon condicion S. reſeruinge to the diſcontinuee a certaine rent, and for defaute of payment a reentre, and bicauſe that the rente is behinde, the diſcontinue entreth of this entre the woman ſhall haue alſyſe of nouel dilleylin after the death of her huſbande agaynſte the diſcontinuee, bicauſe that the condicion was wholly adnulled, inſo much as the woman was in her remptter, yet the huſbande with his wife coulde not haue alſiſe bycauſe the huſbande is ſtopped.

¶ Also if the huſbande diſcontinuee the tenementes of his wyfe, and taketh eſtate againe for terme of his lyfe, the remaynder after hys diſſeaſe to his wyfe for tearme of her lyfe, in this caſe, this is no remptter to the wife during the lyfe of her huſband, bicauſe that during the life of the huſbande, the wyfe hathe nothing in the free holde but in this caſe the wife ouer liue the huſband, this is a remitter to the wife bicauſe that a fre holde in lawe is fallen vpon her maugre her will, & in ſo much that ſhe can haue no accion agaynſte none o-

ther parſon, and againſt herſelf ſhe can haue no accion, therfore ſhe is in her remytter. For in this caſe though that the woman enter not in the tenementes, yet a ſtraunger that hathe cauſe to haue Accion maye ſue his accion againſt the woman of the ſame tenementes bicauſe ſhe is tenant in lawe, though ſhe be not tenaunte in dede, for tenaunte of frankteneement in dede is hee, that if he be diſſeyſed of frankteneement may haue aſſiſe, but the tenāt in the lawe before his entre ſhall haue no aſſiſe, and if a man ſeyſed in fee of certayne lād hathe iſſue a ſonne whiche taketh a wife, and the father dyeth ſeyſed, and after the ſonne dieth before anye enter made by him into the lande, the wyfe of the ſonne ſhall be endowed in the lande, and yet he had no franke teneement in the dede, but he had a fee and a frank teneement in lawe, and ſo note wel that a preципe quod reddat, may as well be mayntened againſt him ỹ hath the frāketeneēt in law, as againſt him that hath frankteneement in dede. Alſo if a tenaunt in the taple hawe iſſue. ii ſonnes of full age, and he letteth the tayled lande to the elder ſonne for terme of his lyfe, the remaynder to the ponger ſonne for terme of his life, and after the tenaunt in the taple dieth. In this caſe ỹ elder ſon is not in his remitter bicauſe he toke eſtate of his father, but if the elder ſon die without iſſue of his body the this is remitter to the ponger brother bicauſe he is hyre in the taile and a frankeeneement

in

in lawe, is fallen vpon him by force of the remaynder, and there is none agaynste whome he may sue hys accion. &c. In the same maner it is where a man is dissesed and the disseysour dyeth therof seased, and the tenementes discende to his heyre and the heyre of the disseasour maketh a lease to a man of the sayde tenementes for terme of lyfe the remaynder to the disseasour for terme of lyfe or in tayle, or in fee, and the tenaunt for terme of life dyeth. Nowe this is a remytter to the dysseasy. &c. Causa qua supra.

¶ Also if tenaunt in the tayle enfeoffe his son and an other of the tayled lande in fee, and ouere of seasyn is made to the other accordyng to the dede, the sonne not knowynge therof, nor agreynge to the feoffemente, and after he that toke the ouere of seasyn dyeth, and the sonne occupieth not the lande nor taketh any profite of the lande durynge the lyfe of his father, and after the father dyeth, nowe this is a remytter to the sonne, bycause the freholde is fallen vpon hym by the survyuour and no defaut was in hym, bicause he neuer agreed. &c. In the lyfe of hys father, and there is non agaynst whom he may pursue his writ of formedon. &c. For if a man be dissesed of certain lande, and the disseysour maketh a dede of feoffement, wherof he enfeoffeth. B. C. and D. And the liuere of seysyn is made to B. and C but D. was not at the ouere of seysyn nor neuer agreed to the feoffement nor neuer wold

take

take the profites. &c. And after B. and T. dye, and D. ouer liueth them, and the dysseisi bringeth his writte, sur disseisin in the per, against thesame shall sue all the matter and how that he neuer agreed to the feoffement, and so he shall dyscharge hym selfe of damages so that the demaundaunt shall recouer no damage against hym though that he be tenant of frank tenement of the lande. And yet the statute of Glocester wyll that the disseisi shall recouer damages on a writ of enter grounded vppon the nouell disseysyn against hym that is found tenaunt. And this is a proofe in the other case that in so muche as the issue in the tayle cometh to the franketenement & not by his dede nor by his agrement that after the deth of his father this is a remitter to hym, insomuche yᵗ he can sue an accion of formedon against none other parson.

Also yf an abbat alyene the lande of hys house to another in fee, and the alyen by hys dede chargeth the lande with a rent charge in fee, and after the alyen enfeoffeth the abbot with lycence to haue and to hold to the abbot and his successours for euer, and after the abbot dyeth, and another is chosen and made abbot. In thys case the abbot that is the successour, and hys couent bee. In theyr remitter, and shall holde the lande dyscharged, because that the same abbot cannot haue anye accyon of writ of enter. Sine assensu capituli of thesame landes against none other

parſone. In the ſame maner it is where a by-ſhop or a deane or other ſuche parſons alyen. &c. without aſſent. &c. And after the bychoppe taketh eſtate agayne of the ſayde lande by ly-cence to him, and to his ſucceſſours, and after the bychop dyeth his ſucceſſour is in his remit-ter as in the right of his church, and ſhall de-fete the charge. &c. cauſa qua ſupra.

Alſo if a man ſue a falſe action agaynſt tenaunt in the taple, as if a manne wyll ſue a-gainſt him in wryt of enter in the poſſ, ſup-poſyng by his wrytt that the tenaunt in the tail had not his entre but by A. of B. that diſſea-ſed, the graundfather of the demaundant, and that is falſe, and he recouereth againſt the te-naunt in the taple by defaute, and ſueth exe-cution, and after the tenaunt in the taple dy-eth, his iſſue maye haue a wryt of Formedon agaynſte hym that recouered and yf he wyll plede the recouere agaynſt the tenaunt in the taple, the yſſue maye ſaie that the ſayd A. of B. diſſeaſed not the graunde father of hym that recouered in the maner as his wrytt ſuppoſeth and ſo he ſhall falſefye his recouere. Alſo ſup-poſe that that was true that the ſayde A. of B. dyſſeaſed the graunde father of the demaū-daunt that recouered, and that after the diſ-ceſyon the demaundaunte or his father, or his graundefather, by a dede hadde releaſed to the tenaunt in the taple all the ryght that he hadde in the lande. &c. And this notwith-ſtandyng he ſueth his wrytt of enter in the poſſ

agaynſt

agaynst the tenaunt in the tayle in the maner as is afore sayde, and the tenaunt in the taile pleadeth to hym, that the sayde A. of B. disseised not his graundfather as his wyfe supposeth, and vppon thys they be at issue, and the issue is founde for the demaundaunt whereby he hath iudgement to recouer and sueth execucion and after the tenaunt in the taile dieth his issue may haue a writ of formedon against hym that recouered. And yf he will plede the recouere by accion tryed against his father tenaunt in the tayle, then he maye shewe and plede the release made to his father, and so the accion that was sued was fayne in the lawe. And it semeth that fayne accyon is asmuch to saye in Englishe, fayned accyon, that is to saye, suche accyon that though the wordes of hys writte be true yet for certayne causes he hath no cause nor tytle by the law to recouer by thesame accion And false acc is where the wordes of the writ be false and in the two cases before sayde yf the case wer such that after such a recouere, and execucō therof made the tenaunt in the tayle has disseised him that recouered and therof dyed seased whereby the lande also descended vnto hys issue this is a remitter to the issue and the issue is in by force of the tayle, and for that cause I haue putte these two cases before sayde to enfourme thee my sonne, that issue in the taile by force of a dyscente made to hym after a

recouere, and execucion therof made agaynste his auncester may be as well in hys remitter as he should be by dyscent made to hym after a dyscontinuaunce made by his ancester of the tayled landes by feoffement in the countrey or otherwyse.

¶ Also in the same case aforesayd yf the case wer such that after the demaundant had iudgement to recouer agaynst the tenaunt in tayle, and the same tenaunt in the tayl died before any execucion had agaynst hym whereby the tenementes descende to his yssue, & he that recouered such a scire facias to haue execucion of the iudgement agaynst the issue in the taile the issue shall plede the matt as before is sayd and so shall proue that the recouere was faise or fayne in the law, and so shall barre hym to haue execucion of the iudgement. &c.

¶ Also yf tenaunt in the tayle dyscontinue the tayle and dye, and his issue bringeth a writ of Formedon againste the discontinue being tenaunt of the freehold of the lande, and the discontynue pleadeth that he is not tenaunte but otherwyse dysclaymeth fro the tenancy in the lande, in this case the iudgement shalbee that the tenaunt goe without day, and after suche iudgemente the issue in the tayle that is demaundaunt maye well enter in the land notwithstandyng the dyscontynuaunce. And by suche enter he shalbe adiudged in his remytter, and the cause is because that yf any man sue a precipe quod reddat agaynst any tenaunt

of

of free holde, in whiche accion the demaundaūt shall not recouer damages, and the tenaunte pleadeth not nontenure but otherwyse dysclaymeth in the tenauncy, the demaundaunt maye not auerre his wryt that he is tenaunt as the wryt supposeth. And for that cause the demaundaunt after that, that iudgement is geuen that the tenaunt shall goe without daye, maye enter into the tenementes demaunded, the whiche shall bee as great aduauntage to hī in the law as yf he had iudgement to recouer agaynst the tenaunt. And by suche enter he is in his remitter by force of the tayle, but by wryt the demaundaunt recouereth damages agaynst the tenaunt, the demaundaunt may auerre that he is tenaunt as the wryt supposeth, and that for the auauntage of the demaūdaunt for to recouer his damages, or elles he shall not receiue his damages the which damages be or dayned geuen hym by the law.

Also yf a man be disseased and the disseysour dye his heyre beyng in by discent now the entre of the disseisi is taken away. And yf the disseysy bryng his wryt of enter vpon the dysseisin in the par, agaynst the heyre, & the heire disclaymeth in the tenauncy. &c. the demaundaunt may auerre hys wryt, that he is tenaunt as the wryt supposeth yf he will, for to recouer hys damages. But yet yf he wyl leaue the auerrement et cetera, he maye lawfully enter into the lande, because of the disclaymer, notwithstandyng that hys enter

before was taken away. And that was adiudged before my maister sir Robert Danby late chiefe iustice of the common place, and his cõpaignions.

¶ Also where the enter of a man is lawful though that he take estate to hym when he is of full age for terme of life, or in tayle, or in fe, this is a remitter to him if such taking of estate be not by dede indented or by matter of recorde that shall conclude or stoppe hym. For yf a man be disseased and therof taketh estate of the disseisor without mede or by dede poll, that is a good remitter to the disseisi.

¶ Also yf a man let land for terme of lyfe to another which alyeneth to another in fe, and the alienor maketh estate to the lessour, thys is a remitter to the lessour because hys entre was lawfull.

¶ Also if a man be disseised and the disseisor letteth the lande to the disseisi by dede poll or without dede for terme of yeres, wherby the disseisi entreth, this enter is a remitter to the disseisi. For in suche case where the enter of a manne is lawfull, and a lease is made to hym though that he clayme by wordes in the countrey that he hath estate by force of such lease or sayth openlye that he claymeth nothyng in the lande, but by force of suche lease, yet thys is a remitter to hym, for suche clayme in the countrey is nothing to purpose, but if he claim in the court of recorde that he hath estate but by force of suche lease and not otherwise then he

he is concluded. &c.

Also yf two toyntenauntes seased of certayn land yn fee the one being of full age the other within age be disseised, and the disseisor dieth seased & his issue entreth. the one of the toyntenauntes beyng then within age, and after that he cometh to full age, the heyre of the disseisour letteth the lande to the same toyntenaunt for terme of theyr lyues, this is a remitter as to the halfe to hym that was within age because that he is seased of that moyte that belongeth to hym in fee, because his entr was lawfull. But the other toyntenaunt hath in the other halfe but estate for terme of lyfe by force of the lease because his entre was taken away. &c.

Warrantye. Cap. xiii.

IT is commonly sayd that there be thre maner of warrantyes, that is to saye, warrantie lineal, warrantie collaterall, and warranty that begynneth by disseisyn. And it is to wyt that before the statute of Gloucester all warrãties whyche descended to them whyche were heires to them that made the warrantie were barres to the same heires to demaunde anye landes or tenementes against those warrãties except the warranties that began by disseisyn. for such warrantie was neuer bar to the heire because the warranty began by wrong that is to say by disseisin.

¶ warranty that begynneth by disseysin is such forme. As wher ther is father and sonne, & the sonne doth purchase land .&c. and letteth the same land to his father for terme of yeares & the father by his dede therof enfeoffeth another in fe, and byndeth him and his heyres to warranty, and yf the father dye whereby the warranty descendeth to his sonne, thys warranty shal not barre the sonne, for notwithstãding this warranty the sonne may well enter in the land or haue an assise agaynst the alyen yf he wyll, because the warranty began by disseisin. ffor when the father that had no estate but for terme of yeres made a feoffement in fe, this was a disseisin to his sonne of frankstenement that then was in the sonne. In the same maner it is if the sonne let vnto the father the land to hold at wyll and after the father maketh a feoffement with warranty . &c. And as it is sayd of the father so may it be said of euery other auncester. &c.

¶ In the same maner it is if tenant by elegit, tenãt by statute marchant or tenaunt by statute staple make a feoffement in fee with warranty &c. this shal not barre the heir ỹ ought to haue the land because that such warranties begynneth by disseisin.

¶ Also yf wardein in chiualry or wardeyn in socage make a feoffement in fe or in fe taile for terme of life wt warranty. &c. Such warranties be no barres to the heires to whõ the lãd shal discend because that thei begin by disseisin.

¶ Also

¶ Also yt the father and the sonne purchase certayn landes or tenementes to haue and to hold to them ioyntly. &c and after the father alyeneth the whole to another & bindeth him & his heires to warranty. &c. & after the father dieth, this warranty shal not barre the sonne of the moite that belonged to him of thesame tenementes, because that as to the moite that belonged to the sonne the warranty beganne by disseisin.

¶ Also if A. of B. be seased of a mese &. F of. G hath no right enter into thesame mese clayming to hold the same mese to him and to hys heires but A. of B. then is continually dwelling in thesame mese. in this cause the possession of the franktenement shall bee alwaye adiudged in A. of B. & not in F. of G. because yt in suche case where two be in one mese, or in other tenementes, & the one clayme by one title & the other by another title the law shall adiudge him in possession yt haue right to haue the possession of the same tenement. But in the case aforesayde yt F. of G. make a feoffement to certayn barretours and extorcioners in the countrey for to haue maintenance of them of the same mese by a dede of feoffement wyth warranty by force of which the said A. of B. dare not dwell in the same mese but goeth out of thesame mese, this warranty beginneth by disseisin, because that such a feoffemente was cause that the sayd A. of B. left the possessiō of thesame mese.

¶ Also

Also yf a manne that hath no ryght to enter in anothers tenementes entre into the sayde tenementes and incontinent maketh a feoffement to other parsons by his dede with warrantie and deliuer to them seisyn, thys warranty begynneth by disseisin, because that the disseisin and the feoffement were made as it were at one tyme. And that thys is law, ye maye see it in a plee. Anno. xxxi. E. iii. i a writ of formedon in the reuercion.

Warrantye lyneall is where a manne seased of certayne lande in fee, maketh feoffement by hys dede to another, & bindeth him and his heyres to warranty, & hath yssue & dyeth & the warranty descendeth to hys yssue this is a lineal warrãty. And the cause why this is a lineall warrantie, is not because ỹ the warranty discendeth from the father to his heire, but the cause is because that yf no such dede with warrantye had been made by the father, than the vyght of the tenementes should discend to the heyre, and the heire should conuey the dyscent from the father. &c. For yf there be father and sonne, and the sonne purchase tenementes in fee, and the father disseaseth the sonne thereof and alyeneth it to another in fee by hys dede and by the same dede byndeth hym and hys heyres to warrante the same tenementes et cetera. And the father dyeth nowe is the sonne barred to haue the sayde tenementes for he maye by no sute nor by any other mese haue the sayde tenementes because of the sayd

warranty.

warrantye. And that is a collaterall warrantye and yet the warrantye descended lyneally from the father to the sonne. But because that yf no suche dede wyth warrantye hadde bee made the sonne in no maner myght conueye the tytle that he hath of the tenementes from hys father to hym in so muche that hys father hadde no estate nor ryght in the tenementes, therfore suche warranty is called collaterall warrantye. In so muche that he that made the warrantie is collaterall to the tytle of the tenementes, and that is as muche to saye that he to whom warrantye descended, coulde not conueye the tytle that he hadde in the tenementes by hym that made the warrãty i this case if no such warrãty had be made

¶ Also yf there bee graundefather, father and sonne, and the graunde father is dysseased in whose possessyon the father releaseth by hys dede with warrantye et cetera. And dyeth and after the graunde father dyeth, nowe is the sonne barred of the tenemẽtes by the warrantye of his father, and this is called lyneall warrantye, because that yf no suche warrantye hadde bee made, the same myghte not haue conueyed the ryght of the tenementes to hym nor shewe howe he is heyre to the graunde father, but by meanes of the father. &c.

¶ Also yf a manne haue fyue three sonnes and is dysseysed and the elder sõne releaseth to the disseisour by his dede with warrantye. &c.

and

and dyeth without iſſue, and after this the father dieth this is a lineal warranty to the yõger ſonne, becauſe that though the elder ſonne dyed in the lyfe of the father, yet by poſſibilitye it myght be that he myght conuey to hym the tytle of the lande by hys elder brother, if no ſuch warranty had bee made. For it might be that after the death of the father the elder brother entred into the tenemẽtes & died without iſſue, and then the yonger ſonne ſhall conuey to hym the tytle by hys elder brother. But in thys caſe if the yonger ſonne releaſe with warranty to the diſſeyſour and dyeth without yſſue, this is a collaterall warranty to the eldeſt ſonne, becauſe that of ſuche lande as was to the other, the elder brother by no poſſibilitye might conuey to him the title by meane of the yonger brother.

¶ Alſo yf tenaunt in the tayle haue yſſue thre ſonnes and diſcontinue the tayle in fe, and the myddle ſonne releaſeth by his dede to the diſcontinue and bind him and his heires to warrantiſe. &c. and after the tenaunt in the tail die and the middle dieth without iſſue now is the elder ſonne barred to haue any recouere by a writ of formedon becauſe that the warrantye of the middle brother is collaterall to hym, in ſomuch that he may by no maner conuey to hi by force of the tayle any diſcent by the mydle brother, and therfore it is a collaterall warrãtye. But i this caſe the elder brother die without iſſue, nowe the yonger brother may wel

haue

hane a formedon to the descendre and recouer thesame lande, because that the warranty of the myddle brother is lineall to the yongest brother, because it may be that by possibilitye the myddle brother may be sealed by force of the tayle after the death of his elder brother, and then the yongest brother maye conuey hys tytle of discent by the myddle brother. &c.

¶ Also yf tenaunt in the tayle discontynue the tayle and hath issue, and dye and the vncle of the issue release to the discontinue with warrantye and dye without issue this is a collaterall warrantie to the issue in the tayle, because that the warrantye discendeth vpon the issue, which cannot conuey himselfe to the tayle by meane of his vncle.

¶ Also if tenaunt in the tayle haue issue. ii. doughters and dye, and the elder doughter entreth not into the whole. and thereof maketh a feoffement in fee with warranty. and after the elder doughter dyeth without yssue, in this case the yonger doughter is barred as to the moyte, and as to the other half she is not barred for as to the motte that belongeth to the yonger doughter she is barred, because that as to the moue that belongeth to her she cannot conuey the discent by the meanes of her elder syster. And therefore as to that moyte. that is a collaterall warrantye, but as to the other moitye whiche belonged to her elder syster by thesame elder syster the warrantye is no barre to the younger syster because

that

that she may conceyue her discent as to that moyte that belonged to her elder by thesame elder syster. And so as to that moyte that belonged to the elder sister the warrantye as to that is ineal to the yonger sister, &c.

¶ And note well that as to hym that demaundeth fe symple by any of hys auncesters she shalbe barred by ineall warrantie which dyscendeth vppon hym, except it be restrayned by some statute, but he demaundeth fee tayle by a writte of Formedon in the descendre shal not be barred by ineall warrantie, except he haue ynough by discent in fee symple by thesame auncester that made the warrantie, but a collaterall warrantie is barre to hym that demaundeth fee, and also to hym that demaundeth fee tayle, without any other discent of fe symple except in cases that bee restrayned by the statute, and other cases for certayn causes as shalbe sayd hereafter.

¶ Also yf lande be geuen to a man, and to his heires of his body begotten the which taketh a wyfe. and haue issue a sonne betwene them, and the husbande discontynueth the tail in fee, and dyeth, and after the wyfe releaseth to the discontinuee in fee, with warrantie and dyeth, and the warrantie discendeth to the son. This is collateral warrantie, but if tenentes be geuē to the husband and the wife and to the heires of their two bodyes begotten which haue issue a sonne, and the husband discontynueth the tayle and dyeth, and after the

wyfe

wyfe releaseth with warrantie and dieth thys warrantie is but a tyneall warrauntie to the sonne, for the sonne shal not be barred in this case to sue his writ of Formedon excepte he haue ynough by discent in fee symple by hys mother because that theyr sstue in a writte of Formedon ought to conuey to hym the ryght as heyre to his father & to his mother of theyr twoo bodyes begotten by fourme of the gyft. And so in suche case the warrantye of the father and the warrantie of the mother be but as lineal warrãties to the heire. &c. And note well that in euery case where a man demaundeth tenemen ss in fee taile by a writ of Formedon, if any of the issue in the taple that had possession or that hath no possession make a warrantie. &c. yf he that sueth the writ of formedon myght by any possibilitye by matter that might be in dede cõueide to hi by hym ỹ made the warrauntye by the fourme of the gyfte. Thys is a tyneall warrauntye, and not collaterall.

¶ Also yf a manne haue issue three sonnes, and he geueth land to the eldest sonne to haue and holde to him to the heires of hys bodye begotten, and for defaute of suche sstue the remaynder to the myddle sonne to hym, and to the heires of his bodye begotten, and for defaute of suche issue the remaynder to the põgest sonne. and to his heyres of his body begotten in thys case yf the eldest sonne dyscõtinue the taple in fee and bynde hym, and his

heyres

heyres to warrantye to dye without issue, this is a collaterall warrantie to the myddle sonne and he shall be barred to demaunde thesame lande by force of the remaynder, because that the remaynder is hys tytle, & his eldeste brother is collaterall to the title which begineth by force of the remaynder.

¶ In thesame maner it is if the middle sõne had thesame lande by force of the remaynder, because that his eldest brother made no dyscõtynuaunce but dyed without yssue of hys body and after the myddle sõne maketh a dyscontynuaunce with warranty, &c. and dyeth without issue, this is a collateral warraunty to the yongest sonne and also in this case yf anye of the sayd sonnes be dissessed, and the father ỹ made the gyft release to the dissessour all hys ryght, &c. with warrantie, this is a collaterall warranty to that sonne vpon whom the warrantie descended causa qua supra. And so note well that where a manne that is collateral to the title, &c. releaseth with warrantye that is a collaterall warrantie.

¶ Also if the father geue lande to his elder sonne to haue & to hold to him & to the heyres males of his body begotten the remainder to the second son, &c. yf the eldest brother eiren in fe with warranty, &c. & hath issue female and dieth without issue male this is not a collaterall warrantye to the seconde sonne, nor that not hurte hym of hys accion by formedon in the remaynder beecause that the warrantye

dyscendeth

discendeth to the doughter of the eldest sonne, and not to the seconde sonne. For euery warãty that discendeth, discendeth to him that is heire vnto him whiche made the warantye by the commen lawe. &c.

¶ Also if lande be geuen to a man and to hys heyres males of his bodye begotten, and for defaute of such issue the remaindre therof to his heires females of his bodye begotten, and after the donee in the tayle maketh a feoffement in fee with warenty accordyng, and hath issue a sonne and a doughter, and dyeth, thys warenty is but a lineal warenty to the sonne to demaunde by writ of Formedon in the discendre. And it is but itneall to the doughter to demaunde the same lande by writte of Formedon in the remaindre, if her brother dye without heire male, because that she clayimeth as heire female of the body of her father begotten. But in this case if her brother in hys life releale to the discontinuce. &c. with warranty. &c. And after dye without issue, this is a collaterall warranty to the doughter, because that she can not conuey to her the right that shee hath by force of the remaindre by anye meane of discent by her brother, and therfore the brother is collaterall to the title of his seller, and therfore his warranty is collaterall. &c.

¶ Also I haue heard saye that in the time of kinge Richarde the seconde there was a iustice in the commen place dwellyng in Kent, called Rikhyll, that had issue diuers sonnes.

And hys entent was, that hys eldeſt ſonne ſhoulde haue certayne landes to hym and the heyres of hys bodye begotten, and for defaute of yſſue, the remaynder to hys ſeconde ſonne and ſo forth. And ſo the thyrde ſonne &c cetera. And becauſe that he wolde that none of hys ſonnes ſhould alien or make warrantie for to barre or to hurte that other that ſhould be in the remaynder &c. He cauſed to be made an indenture to ſuche effect, that is to ſay that the landes and tenementes were geuen to hys eldeſt ſonne vpon thys condition, that yf the eldeſt ſonne alened in fee or in fee tayle &c. or any of hys ſonnes alened &c. that then theyr eſtate ſhould ceaſe and ſhoulde be voyde, and that then the ſayd landes or tenementes immediatly ſhould remayne to the ſeconde ſonne and to the heyres of his body begotten, and that vpon the ſame condicion. &. that if the ſecond ſonne alien &c. that then his eſtate ſhould ceaſe, and that than the ſame landes and tenemẽtes ſhould remayn to the third ſonne, & to the heyres of hys body begotten & ſo forth, the remaindre to other of his ſonnes and liuere of ſeiſin was made accordyng. But it ſemeth by reaſon that all ſuch remayndres in the forme beforeſayde be voyde, and of no value, and that for. iij. cauſes. One cauſe is becauſe that euery remaindre that beginneth by a dede, it behoueth that the remayndre be in him to whom the remayndre is tayled by force of the ſame dede when the liuerey of ſeiſin is

ſin is made to hym that hath the frankē tene-
ment. And ſuch remaynder was not at the ſe-
cond ſonne as the tyme of liuerey of ſeyſyn in
the caſe beforeſayd &c.

¶ The ſeconde cauſe is yf the fyrſt ſonne
alyene the tenementes in fee, then is the frāk-
tenement and the fee ſymple in the alyenee
and in none other, and if the donour had any
reuercion by ſuche alienacion, the reuercion is
dyſcontinued, then though that by ſome rea-
ſon it may be that ſuche remaynder ſhall be-
gynne hys beyng and hys growyng. Imme-di-
atly after ſuche alienacyon made to a ſtraun-
ger that hath by theſame alienacion, frankē-
tenement and fee ſymple, and alſo yf ſuch re-
maynder ſhould bee good, then myght he en-
ter vpon the alyenee where he had no maner
of ryght before the alienacyon, which ſhould
be inconuenient. The third cauſe is when the
condicion is ſuch that if the eldeſt ſonne ali-
en &c. That hys eſtate ſhall ceaſe, or ſhall be
voyde. &c. then after ſuche alienacion &c. may
the donour entre by force of ſuche condicion
&c. as it ſemeth, and ſo the donor or his heires
in ſuch caſe ought more ſoner to haue the lād
then the ſecond ſonne that had no ryght be-
fore ſuche alienacion &c. and ſo it ſemeth that
ſuch remaynders in the caſe before ſayde bee
voyde.

¶ Alſo at the common lawe before the ſta-
tute of Glouceſtre yf tenaunt by the curteſye
had alienēd in fee with warranty accordant,

after his decease this was a barre to the heir &c. as it appeareth by the wordes of the same statute. But it is remedied by the same statu. that the waranty of the tenaunt by the curtesy shal be no barre to the heire, except he haue inough by discent by the tenaunt by the curtesye, for before the saide estatute that was a collaterall warantye to the heyre, bicause he coulde not conuey anye title of discent to the tenementes by the tenaunt by the curtesy, but onely by his mother or other of his auncesters &c. and that is the cause why it was collaterall waranty. But if a manne enherite take a wife, whiche haue issue a sonne betwene them and the father dyeth, and the sonne entreth in the land, and endoweth his mother, & after his mother alieneth that that she hath in her dower to an other in fee, with waranty accordynge, and after dyeth, and the warranty descendeth to the sonne, nowe the sonne shall be barred to demaunde the same Lande bycause of the saide warranty, bicause that such collaterall warranty of tenaunt in dower is not remedied by any statute. The same law is wher tenaunt for terme of life maketh an alienation with warranty. &c. and dyeth, and the warranty descendeth to him that had the reuertion or the remaindre. &c. they shalbe barred by suche warranty. &c.

¶ Also in the saide case if it so were that whe the tenaunte in dower alieneth. &c. the heyre was within age, and also at that time that the

warranty deſcendeth vpon him he was within age, in this caſe the heyre maye after enter vpon the alyenee notwithſtandynge the warraty diſcended. &c. bicauſe that no latches ſhall be adiudged in the heyre within age, that he entred not vpon the alience in the lyfe of the tenaunt in dower, but if the heyre was wythin age at the tyme of the alienacyon, and after he came to full age in the life of the tenaunt in dower, and ſo beynge of full age he entred not in the life of tenaunt in dower, and after the tenaunt in dower dyeth there paraduenture the heyre ſhalbe barred by ſuche warranty, bycauſe it ſhall be accompted his folly that he beynge of full age, entred not in the life of tenaunt in dower. &c.

¶ Alſo it is ſpoken in the ende of the ſayde eſtatute of Gloceſter that ſpeaketh of the alienacion with warrantie made by the tenaunte by the curteſy in ſuche fozme.

¶ Alſo in the ſame maner the heyre of the woman after the death of her father and mother ſhall not be barred of Action if he demaunde the heritage oz the marpage of his mother by a writ of entre that his father alienedin the tyme of his mother, wherof no fyne is leuyed in the kynges courte. &c. And ſo by fozce of the ſame ſtatute if the huſbande of the wyfe alienne the heritage oz marpage of hys wife in fe with warranty. &c. by his dede in the country, this is clere lawe that this warranty ſhal not barre the heire except he haue inough by diſ-

cent.

leute &c. But the doubt is if that the husband alyen the heritage of hys wyfe by fyne leuyed in the kynges courte with warrantie et cetera, if thys shall barre the heyre withoute any discent in value &c. And as to that I will say here certayne reasons that I haue heard say in this matter I heard my master syr Richard Newton late chiefe iustice of the common place sayde once in the same place, that such warranty that the baron maketh by fine leuied in the kiges court shal barre the heire though that he haue nothyng by discent, because the statute sayeth wherof no fine is leuied in the kinges court &c. And so by his opinyon thys warrantye by fyne et cetera abideth yet a collaterall warrantie as it was at the common lawe not remedied by the sayde statute because that the sayd estatute excepteth the alienations by fine with warrantie. And some other haue sayd and yet say the cõtrarye and thys is theyr proofe, that as by the same Chapiter of the sayde estatute it is ordeyned that the warrantie of the tenaunt by the curtesye shall not barre the heyre excepte he haue by ynough discente &c. though that the tenaunt by the curtesye leui a fyne of thesame landes with warrantie & cetera, as strongly as he can, yet thys warranty shal not barre ꝯ heyre except he haue assets or ynough by discent &c. And I beleue that this is lawe and therfore they say that it should be inconuenient to vnderstand the statute in such forme

that

that a manne that hath not but in the ryghte of his wife may by fine leuied by hymselfe of the tenementes that he hath but in the right of his wyfe with warrantie &c. that barre the heyre of the sayd tenementes without discent of the fee simple &c. where tenant by the curtesie can not dooe it. But they haue sayde, that the statute shalbe vnderstande after the fourme, that is to say where the statute speaketh, wherof no fine is leuied in ỹ kinges court this is to say where no lawful fine is rightfully leuied in the same kynges court ỹ that is wherof no fine of the husband and his wyfe is leuied in the kinges court, for at the time of the making of the sayde statute euery state of landes or tenementes that any man or woman had that shoulde discende to hys heire was fee simple without condicion or vppon condicion in dede or in law. And because that such fine then might lawfully haue been leuied by the husband and his wife, and that the husband and the wyfe, and the heyres of the husbandes warrantie &c. such warrantie shuld barre the heyre &c.

¶ And so they say that this is the vnderstanding of the said statute, for if the husband and the wyfe made a feoffement in fee by dede in the countrey the heire after the deceasse of the housebande and the wyfe shall haue a writ of entree Sur cui in vita ỹ cetera, notwithstandyng the warrantie of the housebande. Then if no such excepcion was made in the statute

ſtatute of the fyne ieuyed. &c. then the heyre ſhoulde haue the writ of entre. &c. notwithſtandyng the fyne ieuied by the huſbande and the wyfe becauſe that the wordes of the ſtatute before the exception of the fyne ieuied. &c. be generally. &c. that is to ſay, that the heir of the woman after the death of the huſbande and the wife ſhall not be barred of accion if he demaunde the heritage or the mariage of hys mother by a writ of entre that hys father alienedin the time of his mother. And ſo it ſhold be in the caſe of the ſtatute except ſuch wordes were, that is to ſaye, wherof no fyne is ieuied in the kynges courte. And ſo they ſaye that this is to vnderſtand, wherof no fine by the huſbande and the wife is ieuyed in the kynges courte the whiche is lawfully ieuied in ſuche caſe. For if the iuſtices haue knowledge that a man that hath nothynge but in the righte of his wyfe, will ieupe a fyne in his name onely they will not nor ought not to take ſuche fyne to be ieuyed by the huſbande onely wythout nampynge the wyfe, therfore enquyre of thys matter.

¶ Alſo it is to wytte that in ſuche woordes where the heyre demaundeth the heritage or mariage of hys mother, this woorde is a diſiunctyue, and is as muche to ſaye, if the heyre demaunde the heritage of hys mother, that is to be vnderſtande the tenementes that hys mother had in fee ſymple by diſcent or by purchaſe, or if the heyre demaund the mariage of

hys

his mother, that is to saye, the tenementes that were geuen vnto hys mother in franche mariage.

¶ Also where it is moued in diuers deedes these wordes in latin. Ego et heredes mei. &c warrantizabimus et imperpetuum defendemus, it is to se what effect hath that woorde defendemus in suche deedes. And it semeth that it hathe not the effecte of warrantise nor comprehendeth any cause of warrantyse, for if it shoulde be so that it taketh effect or cause of warrantyse, than it shoulde be put in some fynes leuyed in the kynges courte. And a man neuer sawe that these woordes defendemus was in any fyne but al onely this word warrantizabimus by whiche it semeth that thys verbe warrantiso maketh warranty, and is the cause of warantyse, and none other woorde in our lawe.

¶ Also if tenaunt in the tayle be seased of tenementes demisable by testamente after the custome. &c. And the tenaunt in the tayle alieneth the tenementes to hys brother in fee, and hath issue & dyeth, and after his brother deuiseth by his testamente the same tenementes to an other in fee, and byndeth hym & hys heyres to warrantyse. &c. And dyeth wythout issue, it semeth that thys warrantye shall not barre the issue in the tayle if he wyll sue hys writ of Formedon, bycause that his warranty discended not to the yssue in the Tayle, in so muche as the vncle of the issue was not bound

by

by force of the same warrantie in hys lyfe. And thereof that he coulde not warrant the land in hys lyfe, is in so much that the deuise could not take anye execucion or effecte but after his decease, and in so muche that the vncle in hys lyfe was not holde to warrante, suche warrantise ne maye not discende from him to the yssue in the tayle &cetera. for no thing maye dyscende from the auncestre to his heire but the same that was in the auncestre. Also a warrantye maye not goe without the nature of tenementes by custome, but onelye after fourme of the common lawe. For if tenant in tayle be seised in tenementes in borough Englishe, where the custome is that al tenementes of the same borough ought to dyscende to the yongest sonne, and he discontinueth the tayle with warrantise &c. and hath issue two sonnes and dyeth seised of other landes and tenementes in the same borroughe in fee symple to the value and more of the tenementes tayled and so forth, yet the yongest sonne shall haue a formedon of the tenementes tayled, and shall not be barred by the warrantise of his father though ynough to him discended in fee simple fro the same father after the custome, for this that the warrantie discendeth vpon the elder brother that is in full life &c. and not vppon the younger sonne. In the same maner it is of collaterall warrantise made of suche tenementes where the warrantise dyscendeth to the elder sonne

&c. this

&c. this shal not barre the yonger sonne &c. In the same maner it is of tenemẽtes in the shire of Kente, whiche be called Gauelkinde, the whiche tenementes be departable among the brethren &c. after the custome & cetera, if anye suche warrantie be made by their auncestres suche warrantye discendeth all onely to the heyre that is heire by the common lawe, and not to all the heyres which are heyres of such tenementes after the custome &c.

¶ Also if a tenant in tayle haue issue two daughters by diuers bentres, and dyeth, and the daughters entre and a straunger discea-seth them of the same tenementes, and one of the daughters releseth by her dede to the disseisour all her right and bindeth her and her heires to warrantise, & dieth without issue in this case the first ỹ surmueth may well enter & put out the disseisour of al the tenementes, for this ỹ such warrãtise is no discontinuãce nor collaterall warrãtise to the sister that surmueth, for this that they be of halfe bloud, & the one may not be heire to the other after ỹ comon law. But otherwise it is where ther be daughters of tenantz in ỹ taile by one bẽter.

¶ Also if tenant in the taile lette tenementes to another for term of life the remaidre to an other in fee & the collateral auncestre confirmeth the estate of the tenant for terme of life and byndeth him and hys heires to warrantise for terme of life of the tenant for terme of life and dyeth, and the tenant in the tayle

hath

hath ſſlue, and dyeth, now this ſſlue is barred to ake the tenements by writ of formedone durynge the life of the tenaunte for terme of lyfe, bycauſe of the collaterall deſcent vpō the ſſlue in the tayle. But after the deceaſe of the tenaunt for terme of lyfe, the ſſlue ſhall haue a formedon. &c. And vpon this I haue heard a reaſon that this caſe ſhall proue by another caſe, that is to ſaye, if a man let hys lande to another, to haue and to holde vnto hym, and to hys heyres for terme of anothers lyfe, and the leſſour dyeth, leuynge hym to whoſe life. &c And a ſtraunger entreth in the lande that the heyre of the leſſee may put hi out, for this that in the caſe next afore ſayde, in ſo much that a man may bynde hym and hys heyres to warrant to the tenaunt for terme of lyfe, all onely durynge the life of the tenaunte for terme of lyfe, and the warrantyſe dyſcendeth to the heyre of him that made the warrātyſe, ꝑ which warrantyſe is no warrantyſe of inheritance but al onlye for terme of an others life, by the ſame reaſon where tenementes be lette to a man to haue and to holde to hym and to hys heyres for terme of anothers life, if the father dye leuynge he to whoſe lyfe hys heyre ſhall haue the tenementes leuynge hym to whoſe lyfe. &c. For they haue ſayde that if a manne graunt an annuity to an other to haue and to take to hym and to his heyres for terme of an others life if the graunte dye. &c. That after his heyre ſhall haue the annuitie durynge the

lyfe

lyke of hym to whose lyke. &c. Quere de ista materia.

¶ But where suche lease or graunte is made to a man or his heyres for terme of yeares, in this case the heyre of the lesse, and the graunt shall neuer haue after the death of the lessee or the grauntee that, that is so letten or graunted, for this that it is Chatell reall, and all chatels reals by the common lawe shall come to the executors of the graunte or of the lessee and not to the heyre. &c.

¶ Also in some cases it maybe that howbeit that a collaterall warrantyse be made in fee. &c. yet suche warrantise maye be defeated and anyented. As the tenaunt in the tayle discontinue the tayle in fee, and the discontinue is dissesed, and the brother of the tenant in the tayle releaseth by his dede to the dissesoure all hys ryght. &c. with warrantyse in fee, and dyeth without issue, and the tenaunte in the tayle hathe issue, and dyeth, nowe the issue is barred of hys accion by force of the collaterall warrantyse descendynge vpon hym, but if after thys the discontinue enter vpon the dissesour, than maye the heyres in the tayle haue hys accyon of formedon. &c. for thys that the warranty is anyentyd and defeated. For whē the warrantise is made vnto a man vpon any estate that then he had, if the estate be defeted the warranty is defeted.

¶ In the same maner it is if the discōtinuee make a feoffemente in fee reseruynge to hym certain

certayne rent, and for defaute of payment & reentre &c. & a collateral auncestre releaseth to the feffee ỹ hath estate vpon condition &c. & dieth without issue though that the warrantise descend vpon the issue in the taple, yet if after the rent be behind & the discontinues entreth into the land &c. thē the issue in the taile shal haue his recouerie by a writ of formedon for this that, that warrantie collateral is defiled. And so if any such collateral warrantise be pleded against the issue in the taile in his action of formedon he may shew the matter as it is aforesayd, how the warrantie is defeted, and so he may wel maintayn his action.

¶ Also if tenant in the taple make a feffement to his vncle & after his vncle maketh a feffement in fee with warrantise &c. to another, & after the feoffee of the vncle enfeffeth agayne the vncle in fee. & after the vncle enfeoffeth a stranger in fee without warrantise, and dyeth without issue, and the tenant in the taple will bringe hys writte of formedone against the straunger that was in the feoffemente & cetera, by the vncle, in this case the issue shall neuer be barred by the warrāte that was made by the vncle to the sayd first feoffee of his vncle, for this that the sayd warrantise was defeated and anpented for thys that the vncle toke againe to him as great estate of his said first feoffe to whom the warrantie was made as the same feoffe hadde of him. And the cause why the warrantie is anpented, in thys case

is this

is this that is to saye, that if the warrantise wer in his force, then the vncle shall warrant vnto hymselfe that may not be, but if the feffee made estate to the vncle for terme of life or in fee tayle, sauing the reuercion vnto him et cetera. Or that he make a gyft in the tayle to the vncle, or a lease for terme of yeres, the remaynder ouer et cetera. In this that warrantise is not all vtterly auented, but it is putte in suspence during the estate that the vncle hadde, for after this that the vncle is deadde without issue, then he in the reuercion or he in the remaynder shal barre the issue in the tayle of his writ of formedon by the collateral warrantyse in such case, &c. But other wyle it is, where the vncle hadde as greate estate in the lande by the feoffe to whome the warrãtise was made as he feoffee had of hi &c.

Also if the vncle after such feoffement made with warrãtise or a release made by hym with warrantise be attaynt of felony or outlawed of felony, such collaterall warrantie shall not barre nor grieue the issue in the tayle for this that by the attaynder of felonye the blood is corrupt betwene them &c.

Also if tenant in the tayle be disseised, & after maketh a release to the disseisour with warrantise in fee and after the tenant in the tayle is attaynt, outlawed of felony and hath yssue, and dyeth, in thys case the yssue in the tayle may enter vpon the disseisour.

And the cause is for this that no thynge

maketh

maketh discontinuaunce in this case but the warrantie, and the warrantie may not dyced to the issue in the tayle for thys that the blood is corrupt betwene hym that made the warrantie, and the issue in the tayle. ¶ For the warrantise alway abydeth at the common lawe, & the common lawe is such that whan a man is outlawed or attaynt of felony, which outlary is an attayndre in the law that the blood betwene hym and his sonne and all other which should be sayd hys heyres is corrupte, so that nothyng by discent may discende to any that may be hys heyre by the common lawe. And the wyfe of such a man that is so attaynt shal neuer be endowed in the tenementes of her husband so attaynt.

¶ And the cause is because men should more eschew to doo felony &c. But the issue in the tayle, as to the tenementes tayled is not in suche case barred because he is inherited by force of the statute and not by the course of ȳ common lawe. And therfore such attayndre of hys father or of hys auncestre in the tayle &c. shall not putte hym out of his ryghte, that he should haue by force of the tayle &c.

¶ Also yf tenaunt in the tayle enfeoffeth hys vncle which enfeoffeth another with warranty &c. if after the feoffe by hys dede release to the vncle all maner of warranty, or all maner of couenauntes reals, or al maner of demaundes by such release the warranty is extinct. And if the warranty in such case be pleded

ded agaynſt the heyre in the tayle that bryng-
eth his wryt of formedon to barre the heire of
his accion if the heire haue and plede the ſaid
releale. &c. he ſhall defete the plee in barre &c
And many other caſes and matters be there,
wherby a man may defete warranties.

¶ And it is to wyt that in the ſame maner
as collaterall warrantye may bee defeted by
matter in dede or in lawe, in the ſame maner
may lyneall warrantie be defeted. &c. For if
the heir in the taile bring a writ of formedō, &
a lineall warrantie of his auncеſter inheryta-
ble by force of the taile be pleded againſt him
with that that aſſets to him deſcended of ſe ſim
ple by the ſame anceſter that made the war-
rantye if the heire that is demaundant
may adnul and defete the warranty,
this ſuffiſeth to him for the diſcēt
of other tenementes of fee ſim-
ple maketh nothing to barre
the heyre without the
warrauntye. &c.

T.l.

FINIS.

(**)

¶ Here beginneth the Table of this present boke.

NOw haue I made for the my lord three bokes.
The first is of estate that menne haue of landes or tenementes, that is to say.
Of tenaunt in fee simple.
Tenaunt in fee tayle.
Tenant in the tayle after possibilitie of issue extinct.
Tenant by the curtesy of England.
Tenant in dower.
Tenant for terme of life.
Tenant for terme of yeres.
Tenant at wyl by the common law.
Tenant at will by the custome of the maner.

¶ The seconde booke.

¶ The second boke is of Homage.
Fealtie.
Escuage.
Knightes service.
Socage.
Franke almoigne or free almes.
Homage auncestrell.
Grand sergeaunty.
Petysergeaunty.
Tenure in burgage.
Tenure in villeynage.

¶ Of

¶ And these two final bokes haue I made for thee for to vnderstande better certaine chapiters of the auncient bokes of tenures.

¶ The thyrde boke.

¶ And know thou my sonne that I wil not that thou beleue that al that that I haue said in the sayde bokes be law, for that wil I not take vpon me nor presume. But of those thinges that bee not lawe enquyre and learne of my wyse maysters learned in the lawe. Notwithstandyng thoughe that certayne thynges that bee noted and specified in the said bokes

bee not lawe yet suche thynges shall be the moze apte and able to vnderstande and learne the argumẽtes and the reasons of lawe. For by the argumentes and reasons in the lawe a manne may moze sooner come to the certaintie and to the knowledge of the lawe. Lex plus laudatur quando ratione probatur.

(.?.)

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